

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Cathy J. Orler, et al.)	
)	
Complainants,)	
v.)	Case No. WC-2006-0082, et al.
)	
Folsom Ridge, LLC,)	
)	
and)	
)	
Big Island Homeowners)	
Water and Sewer Association, Inc.,)	
f/k/a Big Island Homeowners)	
Association, Inc.)	
)	
Respondents.)	
)	
)	
In the matter of the Application of)	
Folsom Ridge LLC and Big Island)	
Homeowners Water and Sewer Association,)	
Inc. for an order authorizing the transfer)	Case No. WO-2007-0277
and Assignment of Certain Water and)	
Sewer Assets to Big Island Water)	
Company and Big Island Sewer)	
Company, and in connection therewith)	
certain other related transactions.)	

**RESPONDENTS'/APPLICANTS' OBJECTIONS TO TESTIMONY OF
COMPLAINANTS/ INTERVENERS**

COME NOW Folsom Ridge LLC and Big Island Homeowners Water and Sewer Association, Inc. (sometimes collectively referred to as "Applicants") and assert the following objections to the below described written testimony filed by the identified complainants/intervenors in these matters joined for hearing:

Cathy Orler Direct Testimony (Amended)

Page and Lines	Objection
p.1, 1-20, p. 2, lines 1-12	Substitute for argument; clearly not fact based testimony
p. 3, lines 19-21, p. 4, lines 1-2	Irrelevant; misstates the record, material pertaining to discovery requests; no discovery motion has been filed; presumes requests were lawful requests for documents
Page 4, line 3	Question is argumentative; assumes facts not in evidence
Page 4, lines 13-19, page 5, lines 1-14	Hearsay; lack of foundation; legal conclusions invading the province of the Commission
Page 5, lines 15-17	Speculative
Page 6, all lines	Legal conclusions; argumentative and conclusory
Page 7, lines 3-9	Argumentative
Page 7, lines 10-19	Irrelevant; material pertaining to discovery requests; no discovery motion has been filed; presumes requests were lawful requests for documents
Page 8, lines 6-15	Argumentative, conclusory and self serving
Page 9, lines 1-2	Argumentative; lack of foundation, legal conclusions
Page 9, lines 14-19, page 10, line 1	Legal conclusions; lack of foundation
Page 10, lines 2-18; page 11, lines 1-16; page 12, lines 1-9	Lay opinion; no foundation; legal conclusions and argumentation
Page 14, lines 4-14	Argumentation in response, legal conclusions; opinion without qualification or foundation
Page 15, lines 15-22; page 16, lines 1-7	Answer is argumentative and contains legal conclusions
Page 16, lines 12-16	Speculation and opinion; no foundation
Page 17, lines 14-21	Feelings are not relevant evidence; answer supplied is argumentative
	Respondents/applicants object to any question seeking the feelings of the witness in this respect
Page 18, lines 13-20; page 19, lines 1-5	Argumentative
Page 19, lines 6-21; page 20, lines 3-23; page 21, line 1	Irrelevant
Page 21, lines 13-21	Argumentative, answer contains legal conclusions, hearsay, and lay opinion; no foundation
Page 22, lines 9-14	Speculation, hearsay, no authentication or foundation

Page 22, lines 15-18	Irrelevant; hearsay, no authentication
Page 23, lines 1-14	Irrelevant
Page 25, lines 13-20	Argumentative, legal conclusions, opinion
Page 25, lines 21 -22; page 26, lines 1-11	Irrelevant; answer contains hearsay, argument
Page 26, lines 12-19	Argument and opinion; speculation
Page 27, lines 1-12	Irrelevant, argumentative, seeks legal conclusions,
Page 27, lines 13-21	Irrelevant; hearsay; argumentative
Page 28, lines 1-19	Irrelevant (lines 1-3); argumentative, erroneously presumes information referred to in the application must first be publicly provided
Page 28, lines 20-21	Presumes legal description must be provided as a part of the application
Page 29, lines 1-9; lines 10-18	Argumentative; answers contain opinion and conclusions without qualification
Page 29, lines 19-20; page 30, lines 1-8	Argumentative, self serving
Page 30, lines 13-17	Argumentative, hearsay and unauthenticated material in the answer
Page 31, lines 1-3	Presumes information must be provided to persons not members of the Association
Page 31, lines 6-8	Speculation; no foundation
Page 31, lines 9-12	No foundation, hearsay
Page 31, lines 13-6	Argumentative, legal conclusions, and relevancy
Page 32, lines 2-6	Irrelevant; misstates the record; no data requests for title information have been served; presumes that such information must be provided
Page 32, lines 7-17	Questions are argumentative, contain opinions and conclusions, hearsay
Page 33, lines 1-4	Hearsay
Page 33, lines 5-8	Argumentative, legal conclusions
Page 33, lines 9-18, page 34, lines 1-3	Irrelevant; misstates the record, material pertaining to discovery requests; no discovery motion has been filed; presumes requests were lawful requests for documents
Page 34, lines 7-9	Presumes information of this nature needs to be provided
Page 35, lines 1-13	Hearsay, argumentation, opinions and conclusions
Page 35, lines 14-18	Hearsay; presumes that such information was required to be provided
Page 36, lines 1-5	Hearsay, opinion and conclusions
Page 36, lines 8-10	Argumentation and opinion and conclusions

Page 36, lines 11-19, page 37, lines 1-20; page 38, lines 1-7	Argumentative, legal conclusions,
Page 38, lines 14-18	Argumentative, presumes residents have utility assets, none of which have been identified, questions are self serving and irrelevant
Page 39, lines 1-17	Object to the form of the question and the characterization of a “self appointed” office in the corporation
Page 39, lines 18-20; page 40, lines 1-20	Irrelevant; questions presume that meetings with parties to cases in the commission must always be public; hearsay; argumentative
Pages 40 -41 in general	Argumentative questions and answers; presumes a duty to disclose or produce the documentation
Page 42, lines 1-4	Argumentative, self serving, legal conclusions
Page 42, lines 14-19; page 43, line 1	Irrelevant; presumes counsel for respondents had access and control over documents of a separate corporate entity; further presumes a duty to disclose or produce the documentation
Page 43 generally	Irrelevant
Page 45, lines 17-19	Object to testimony on “feelings”
Page 46, lines 8-12	Opinion and conclusions, argumentation, hearsay
Page 47, lines 4-17	Argumentation, opinion, hearsay
Page 48, lines 5-17	Argumentation, opinion and conclusions
Page 49, line 18; page 50, lines 1-5	Irrelevant
Page 50, lines 6-12	Hearsay, argumentation; presumes there is a duty to provide such documentation
Page 50, lines 13-19; page 51	Irrelevant;
Page 51, lines 18-21; page 52, lines 1-4	Legal conclusion; argumentation
Page 52, lines 11-20; page 53, lines 1-3	Presumes that there is a duty to produce information and there is none; argumentative question
Page 53, lines 4-11	Irrelevant, hearsay, argumentative
Page 53, lines 12-18	Same objections as above, cumulative and repetitive
Page 54, lines 1-3	Self serving, hearsay, argumentative
Pages 54- end	Argumentative, self serving

Cathy Orler Rebuttal Testimony

Pages and Lines	Objection
Page 1, lines 11-16	Presumes that there is a duty to provide such information; argumentative
Page 1, lines 17-19; page 2, lines 1-6	Presumes that there is duty to provide such information in the form or quality referred to in the questions; argumentative
Page 2, lines 7-18; page 3, lines 1-6	Presumes that there is a duty to provide such information; argumentative
Page 3, lines 7-8	Legal opinion, lay opinion, no foundation
Page 3, lines 9-17; page 4, lines 1-15	Presumes that there is duty to provide such information in the form or quality referred to in the questions; argumentative
Page 4, lines 16-18; page 5, lines 1-7; 11-17	Presumes that there is duty to provide such information in the form or quality referred to in the questions; argumentative
Page 6, lines 1-18; page 7, lines 1-4	Presumes that there is duty to provide such information in the form or quality referred to in the questions; argumentative
Page 7, lines 5-14	Argumentative and conclusory question and answers
Page 7, lines 16-18; page 8, lines 1-17; page 9, line 1	Presumes that there is duty to provide such information in the form or quality referred to in the questions; argumentative
Page 9, lines 2-18; page 10, lines	Argumentative, expresses legal opinions and conclusions; the vote referred to is a valid result under Association bylaws and applicable state law; asks a question that Ms. Orler admits she cannot answer
Page 10, lines 15-18; page 11, lines 1-3	Hearsay, further presumes that there is a duty to disclose this information; irrelevant
Page 10, lines 4-19; page 12, lines 1-3	Legal opinions and conclusions; argumentative
Page 12, lines 4-18; page 13, lines 1-7	Hearsay; conclusions and presumptions in questions and answers; argumentation
Page 13, lines 12-18	Argumentative
Page 14, lines 1-9	Opinion; misstates the record
Page 14, lines 10-12	Presumes an oversubscription a vague term
Page 15, lines 2-5	Speculation, misstates the record; opinion; no foundation for the conclusion
Pages 15 through Page 17, line 8	Irrelevant
Page 15, line 12-14	Argumentative
Page 18, lines 1-13	Argumentative answer, legal conclusions, repetitive and cumulative of direct testimony

Page 19, lines 1-12	Speculation, hearsay, unauthenticated documentation;
Page 19, lines 13-18; page 20, lines 1-9	Irrelevant
Page 20, lines 10-20	Repetitive and cumulative of direct testimony
Page 21, lines 1-7	Irrelevant
Page 21, lines 9-15	Presumes that violations of recorded covenants have occurred; legal opinions and conclusions; irrelevant
Page 22, lines 8-20; page 23, lines 1-5	Argumentative, opinion and conclusions without foundation, presumes facts not of record; cumulative and repetitive of direct testimony (page 23, lines 1-5)
Page 23, page 24, lines 1-13	Argumentative, speculative, opinion evidence without proper foundation
Page 24, lines 14-19, page 25, line 1	Argumentative; presumes there is a duty to supply such information
Page 25, lines 2-15	Self serving, no authentication of referred to documentation; cumulative and repetitive of direct testimony
Page 26, lines 5-26	Repetitive and cumulative of Ms. Orler's direct testimony, and previously objected to in Ms. Orler's direct testimony. Same objections apply
Page 27, lines 1-16	Repetitive and cumulative of Ms. Orler's direct testimony, and previously objected to in Ms. Orler's direct testimony. Same objections apply
Page 28, lines 1-8	Repetitive and cumulative of Ms. Orler's direct testimony, and previously objected to in Ms. Orler's direct testimony. Same objections apply
Page 28, lines 9-12	Presumes that there was a duty to supply such information; argumentative
Page 28, lines 13-18; page 29, lines 1-7	Irrelevant; misstates the record, material pertaining to discovery requests; no discovery motion has been filed; presumes requests were lawful requests for documents; repetitive and cumulative of direct evidence
Page 29, lines 8-11	Legal conclusion and argumentative
Page 30, lines 1-18; page 31, lines 1-3	Repetitive and cumulative of Ms. Orler's direct testimony, and previously objected to in Ms. Orler's direct testimony. Same objections apply; argumentative and legal opinion and conclusion (page 31, line 1-3
Page 31	Argumentative and conjectural; self serving questions and responses

Cathy Orlor Surrebuttal Testimony

Page and line	Objection
Pages 1, 2, 3, 4 5 and 6, lines 1-18	Argumentative answer; misuse of surrebuttal testimony; does not address any testimony in the rebuttal of opposing parties
Page 7, lines 7-20 through page 9, lines 1-17	Argumentative, misuse of surrebuttal testimony; does not address any testimony in the rebuttal of opposing parties
Page 9, lines 18-20; page 21, lines 1-8	Self serving
Page 10, lines 13-18	Argumentative
Page 10, lines 19-21; page 1, lines 1-14	Argumentative and opinion evidence with no foundation; repetitive and cumulative
Page 11, lines 20-21; page 12, lines 1-5	Self serving
Page 12, lines 20-21; page 13, lines 1-4	Argumentative
Page 12	The whole page contains argumentative references and conclusions unsupported in the testimony
Page 18, lines 10-18	Legal conclusion
Pages 21, 22, 23 and page 24, lines 1-4	Supplemental direct testimony; misuse of surrebuttal testimony; this material was available to the witness when direct testimony was filed; additionally, legal conclusions and opinions; the vote at the special meeting of the Association was conducted lawfully and its results lawfully recorded
Page 24, lines 5-22	Improper surrebuttal; repeats direct and rebuttal already filed; argumentative and contains legal conclusions
Page 25, lines 8-19, pages 26,27 through page 28, lines 1-8	Supplemental direct testimony; misuse of surrebuttal testimony; this material was available to the witness when direct testimony was filed; respondents should be allowed to supplement testimony on the stand if this is not stricken
Page 28, lines 9-14	Self serving

Ben Pugh Direct Testimony

Page and line	Objection
Page 1, lines 11-22; lines 1-6	Argumentative response with legal conclusions and opinions
Page 2, lines 8-23	The answer contains hearsay and material from unauthenticated reports
Page 3, lines 14-17	Lay opinion; no foundation for opinions rendered; argumentative
Page 4, lines 12-17	Hearsay with respect to the Missouri Department of Health chart and relevancy; there is no evidence that such a chart has effect on a DNR approved design
Page 7, lines 13-23; page 8, lines 1-11	Irrelevant
Page 8, lines 12 -15	Objection to the form of the question, it presumes that he has been consistently criticized and is argumentative
Page 10, lines 12-18	Self serving
Page 11	Strictly argument and not testimonial

Ben Pugh Rebuttal

Page 3, lines 1-7	Irrelevant and hearsay
Page 3, lines 8-19	Opinion evidence and no foundation; hearsay and argumentation
Page 4, lines 11-19	The answer is argumentative
Page 5, lines 6-14	The answer is argumentative

Ben Pugh Surrebuttal

Page 3	Mr. Pugh refers to health professionals placing the health of residents at high risk; that is his unsupported lay opinion or hearsay; he refers to illegally installed valves and this is legal argument; much of this page is argument
Page 4, lines 16	Argumentation

Cindy Fortney Direct

Page and line	Objection
Page 3, lines 1-4	Hearsay
Page 3, lines 8-20; page 4, lines 1-18	Argumentative, improper characterization; hearsay; relevance
Page 5, lines 1-18	Argumentative, opinion evidence not supported by foundation proof; legal conclusions
Page 5, lines 19-20; page 6, lines 1-12	Irrelevant; argumentative hearsay
Page 6, lines 13-21; page 7, lines 1-7	Hearsay and argumentation
Page 7, lines 11-14	Hearsay
Page 10, lines 1-2	Argumentative
Page 12, lines 10-21	Argumentative, hearsay
Page 13, lines 10-15	Self serving remarks

WHEREFORE, Applicants respectfully request the Commission to sustain these objections and strike the objected to portions of the testimony identified above.

Respectfully submitted,

/s/ Mark W. Comley

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 24th day of February, 2007, to General Counsel's Office at gencounsel@psc.mo.gov; and Office of Public Counsel at opcservice@ded.mo.gov and via U.S. Mail, postage prepaid, to:

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