

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

In the Matter of the Application of	)	
Big Island Water & Sewer Company, Inc.	)	
for a Certificate of Convenience and	)	Case No. WA-2006-0480
Necessity authorizing it to construct,	)	
install, own, operate, control, manage,	)	
and maintain a water and sewer system	)	
for the public located in an unincorporated	)	
area in Camden County, Missouri	)	

**MOTION TO SUSPEND PROCEDURAL SCHEDULE**

Comes now Big Island Water & Sewer Company, Inc., (hereinafter “Big Island” or “Company”) and submits the following to the Commission:

1. On June 16, 2006, Big Island Water & Sewer Company filed an application with the Commission, pursuant to Section 393.170, RSMo 2000, requesting that the Commission grant it authority to provide water and sewer service to an unincorporated portion of Camden County, Missouri. The area to be served is a residential area on Big Island, which is located along the shores of the Little Niangua Arm of the Lake of the Ozarks.

2. In due course the Commission approved a procedural schedule in this matter, and pursuant to motion amended the procedural schedule in an Order dated October 11, 2006. The procedural schedule as modified is as follows:

Direct Testimony filed by the Company	October 27, 2006 <sup>1</sup>
Rebuttal Testimony filed by Staff, Public Counsel, and Other Parties	December 15, 2006
Surrebuttal Testimony filed by All Parties	January 16, 2007
List of Issues, List of Witnesses, Order of Cross Examination filed by	

---

<sup>1</sup> Written direct testimony of the Company was filed as scheduled on this date.

Staff	January 19, 2007
Statements of Position filed by All Parties	January 26, 2007
Evidentiary Hearing	February 5, 6, & 7, 2007, beginning at 8:30 a.m.

3. Since the filing of this application and the filing of the Feasibility Study marked as Appendix 3 to the application, a group of residents on Big Island have organized a nonprofit sewer company under and pursuant to the provisions of Sections 393.825 through 393.861 RSMo 2000 and a nonprofit water company under and pursuant to the provisions of Sections 393.900 through 393.951 RSMo 2000. The nonprofit companies are named Big Island Sewer Company and Big Island Water Company and were incorporated on October 10, 2006 (the Nonprofit Companies). Under sections 393.847, 393.933, RSMo 2000, the Commission lacks jurisdiction over the construction, maintenance, or operation of the facilities owned by these companies, or their service, rates, accounting or management.

4. The Company has been made aware that representatives of the Nonprofit Companies have negotiated with Folsom Ridge LLC (Folsom Ridge) and with Big Island Homeowners Water and Sewer Association, Inc. (the Association) toward acquisition of the assets used or useful in connection with the provision of water and sewer service in the service area identified in the Company's Feasibility Study (the Water and Sewer Assets).

5. Folsom Ridge and the Association are already under contract with the Company for transfer of the Water and Sewer Assets, but the Company has no objection to the continuing negotiations with the Nonprofit Companies. Because this application was filed in response to complaints filed by several residents on Big Island, the Company believes that services supplied by homeowner owned and operated nonprofit water and sewer companies constitute an equally

adequate, if not better, solution to provision of adequate water and sewer service for the area by a regulated entity.

6. Based upon counsel's information and belief, the negotiations between the Nonprofit Companies, Folsom Ridge and the Association regarding the terms and conditions of a transfer of the Water and Sewer Assets are near conclusion, and a final form of a transfer agreement will soon be ready for execution. Moreover, a closing on the transaction with the Nonprofit Companies could reasonably occur in the next 40 to 50 days.

7. Provided Folsom Ridge, the Association and the Nonprofit Companies reach and close on an agreement transferring the Water and Sewer Assets to the Nonprofit Companies, the Company will release and discharge Folsom Ridge and the Association from the duties and responsibilities set forth in their existing asset transfer or purchase agreement and thereafter will move to dismiss this application.

8. Staff, Office of Public Counsel and the Interveners are under a deadline to file rebuttal testimony in this matter on December 15, 2006. Because of the strong likelihood that this application will become moot with the sale of the relevant assets to the Nonprofit Companies, and will be dismissed, the Company has filed this motion requesting a suspension of the procedural schedule. Suspension of the procedural schedule will minimize or eliminate the expenditures of time and other resources which Staff, Office of Public Counsel and the interveners may incur in meeting, first and foremost, the December 15 deadline, and the other filing deadlines in the procedural order.

9. This motion is not filed for the purposes of delay but rather in the interest of reducing cost and expense for the parties in this matter which is likely to be dismissed as a consequence of the negotiations pending between Folsom Ridge, the Association and the

Nonprofit Companies.

10. Undersigned counsel has been authorized to represent that Staff has no objection to this motion.

WHEREFORE, on the basis of the above and foregoing, Big Island Water & Sewer Company, Inc. respectfully requests the Commission to suspend the remainder of the procedural schedule.

Respectfully submitted,

/s/ Mark W. Comley

Mark W. Comley #28847  
Newman, Comley & Ruth P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, MO 65102  
(573) 634-2266  
(573) 636-3306 FAX

Charles E. McElyea #22118  
Phillips, McElyea, Carpenter & Welch, PC  
85 Court Circle  
P.O. Box 559  
Camdenton, MO 65020  
(573) 346-7231  
(573) 346-4411 FAX

ATTORNEYS FOR BIG ISLAND WATER AND SEWER  
COMPANY, INC.

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 6<sup>th</sup> day of December, 2006, to General Counsel's Office at [gencounsel@psc.mo.gov](mailto:gencounsel@psc.mo.gov); and Office of Public Counsel at [opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov) and via U.S. Mail, postage prepaid, to:

Cathy Orler, 3252 Big Island Drive, Roach, MO 65787,  
Cindy Fortney, 3298 Big Island Drive, Roach, MO 65787,  
Benjamin D. Pugh, 1780 Big Island Drive, Roach, MO 65787,  
Joseph J. Schrader, 1105 Yorktown Pl., DeLand, FL 32720,  
Stan Temares, 1836 Big Island Dr., Roach, MO 65787,  
Ben F. Weir, 3515 SW Meyer Blvd., Blue Springs, MO 64015,  
Elaine H. and William T. Foley, II, 15360 Kansas Ave, Bonner Springs, KS 66012,  
Don Deckard, 2218 Big Island Dr., Roach, MO 65787,  
Bernard J. Beaven, 13900 E 217, Peculiar, MO 64078,  
Jerry Steinhour, Lot 57, P.O. Box 737, Seneca, IL 61360,  
Joseph Geary Mahr, 5712 Dearborn Street, Mission, KS 66202,  
Arthur W. Nelson, 6504 Melody Lane, Parkville, MO 64152,  
Eugene Prather, 1604 Big Island Dr., Roach, MO 65787,  
Donald J. and Frances K. Weast, 5291 Kerth Road, Mehlville, MO 63128,  
Stephen D. Kleppe, 8210 E. Tether Trail, Scottsdale, AZ 85255,

**/s/ Mark W. Comley**

Mark W. Comley