

**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' RESPONSE AND OBJECTIONS
TO MS. ORLER'S LATE FILED EXHIBITS**

COME NOW Folsom Ridge LLC and Big Island Homeowners Water and Sewer Association, Inc. (sometimes collectively referred to as "Respondents" or "Applicants") and for their response and objections to exhibits late filed by Ms. Orler submit the following to the Commission:

1. On March 12, 2007, pursuant to Commission order of March 5, 2007, Ms. Orler filed a copy of offered Exhibit 34 which was free of extraneous markings. She also late filed as

Exhibit 105 a copy of what purports to be a copy of the rebuttal testimony she prefiled in Case No. WA-2006-0480.¹ In her cover pleading for Exhibit 105, Ms. Orler states that Exhibit 105 is being submitted to comply with requests from Commissioners Murray and Clayton during the opening comments segment of the hearing.

2. With respect to Exhibit 105, at the conclusion of the hearing in this matter on March 2, 2007 but while all of the parties were still in attendance, Ms. Orler approached the regulatory law judge and asked to offer her rebuttal testimony from Case No. WA-2006-0480 into evidence. Ms. Orler explained that Commissioner Murray and Commissioner Gaw had requested her to offer this testimony as a late-filed exhibit. This was noted in the Commission's March 5, 2007 order which order also gave the parties the opportunity to file responses and objections after the transcript had been filed.

3. Respondents have no objection to the admission of Exhibit 34 in the form attached to Ms. Orler's response to the Commission's March 5, 2007 order.

4. Respondents object to the admission of late filed Exhibit 105. First and foremost, the transcription of the opening remarks at hearing shows no request by Commissioners Clayton, Gaw, or Murray that a copy of Ms. Orler's rebuttal testimony in another case be offered into evidence. The remainder of the transcription of hearing shows no request of that sort made by any commissioner. Since submission of Exhibit 105 was not requested by any commissioner, the Commission need go no further in ruling that it is inadmissible, however there are other objections.

¹ The copy of Exhibit 105 which was delivered to the undersigned lacks "CJO Schedule 22" consisting of approximately 9 pages, a schedule attached to Ms. Orler's rebuttal testimony as filed in Case No. WA-2006-0480.

5. Respondents object generally to the offer of written rebuttal testimony filed in a different case involving different issues and different parties. The testimony adds nothing to the issues to be decided in this case and confuses the record of evidence already admitted.

6. Furthermore, the parties had no fair opportunity to submit surrebuttal to Exhibit 105 in this case. Additionally, and just as importantly, no party had an opportunity to cross examine Ms. Orler at hearing on the content of Exhibit 105 except to the extent Exhibit 105 may have coincidentally resembled testimony Ms. Orler filed pursuant to the procedural order in these cases.

7. Respondents will not undertake line by line objections to the nearly 50 pages of questions and answers in Exhibit 105. However, the Commission will observe that much of Exhibit 105 is objectionable on the same grounds that were supplied the Commission in writing on February 26, 2007. Additionally, many of the schedules attached to Exhibit 105 are either documents which were admitted at hearing already, or were excluded pursuant to objection.

8. CJO Schedule 1 attached to Exhibit 105 is part of Exhibit 44. It is cumulative.

9. All seven pages of CJO Schedule 2 are letters purportedly from Lewis Bridges, an attorney, none of which have been properly authenticated, represent hearsay, and are irrelevant legal opinions, not to mention that the copies contain interpretive and argumentative remarks in the margins and much of the text is obscured.

10. CJO Schedule 3 is the same as Exhibit 41 in this case and it was not admitted.

11. CJO Schedule 4 is an unauthenticated document and hearsay.

12. CJO Schedule 5 is unauthenticated in that there is no record in the evidence of its receipt. It is also irrelevant.

13. CJO Schedule 6 is cumulative of Exhibit 76.

14. CJO Schedule 7 is the same as Exhibit 57 which was not admitted.

15. CJO Schedules 8 and 10 purport to be letters signed by Reginald Golden. They are not authenticated and are hearsay. At hearing Ms. Orler offered other letters purporting to be written by Mr. Golden but they were excluded following objection for lack of authentication. CJO Schedules 8 and 10 should not be treated differently.

16. CJO Schedule 9 purports to be a letter from Charles McElyea but it is unauthenticated. At hearing, Ms. Orler offered other letters purporting to be written by Mr. McElyea and they were excluded for lack of authentication. CJO Schedule 9 should be treated the same.

17. CJO Schedule 11 is the same as Exhibit 75 which was not admitted in this case.

18. CJO Schedule 12 contains two letters purporting to be letters written by Reginald Golden, although the signature line on one of the letters is obscured. Both are unauthenticated and inadmissible. The last of Schedule 12 is the same as Exhibit 96 (which was admitted on the condition that all interpretive remarks be removed from the margins).

19. CJO Schedule 13 has not been authenticated and is inadmissible.

20. CJO Schedule 14 is a copy of Exhibit 23 and is cumulative.

21. CJO Schedule 15 purports to be a letter from DNR but it has not been authenticated and is hearsay. It is rife with interpretative remarks in the margins as well.

22. CJO Schedule 16 is a copy of Exhibit 33 and it was not admitted at hearing.

23. CJO Schedule 17 is a copy of Exhibit 40 and it was not admitted at hearing.

24. Part of CJO Schedule 18 purports to be a copy of the application filed in Case No. WA-2006-0480 but it has been marked on and interpretive remarks have been added. This is an improper use of the document and it is irrelevant to this case. The remainder of CJO Schedule

18 purports to be letters written by Rick Rusaw or Reggie Golden. None have been properly authenticated and are inadmissible. The letters also contain interpretive markings.

25. CJO Schedule 19 appears to be an excerpt of the minutes of an annual meeting of the Association. It is not properly authenticated and is inadmissible.

26. CJO Schedule 20 purports to be a letter from Gary Cover. It has not been authenticated and is inadmissible.

27. CJO Schedule 21 appears to be a copy of a document filed by Ms. Orler in Case No. WA-2006-0480. It is irrelevant to this case.

28. Even though CJO Schedule 22 was not attached to Exhibit 105 received by this office, Respondents object to the schedule on grounds that it contains unauthenticated documents which amount to hearsay and are otherwise irrelevant to the issues in this case.

WHEREFORE, Applicants reassert that they have no objection to the form of Exhibit 34 now offered by Ms. Orler. Based upon the above and foregoing, Applicants respectfully request the Commission to determine that Exhibit 105 is inadmissible in this proceeding.

Respectfully submitted,

/s/ Mark W. Comley

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ATTORNEYS FOR FOLSOM RIDGE AND BIG ISLAND
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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 3rd day of April, 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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