

**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.	)	

**RESPONDENTS' RESPONSE TO MS. ORLER'S MOTION TO COMPEL**

Come now Folsom Ridge LLC and Big Island Homeowners Water and Sewer Association, Inc., f/k/a Big Island Homeowners Association, Inc. (collectively the "Respondents") and respectfully submit the following to the Commission:

1. On May 15, 2006, the Respondents filed a motion to compel each of the complainants to comply with data requests submitted by the Respondents. As the Commission noted in its order of May 30, 2006, the complainants have not responded to Respondents' motion to compel. Instead, on or about May 24, 2006, Ms. Orler alone filed what Respondents and the Commission deem a motion to compel which relates to responses the Respondents served on Ms. Orler on April 14, 2006.

2. Because the complainants have filed no response to Respondents' motion to compel, Respondents therefore renew their request that it be granted immediately. The answers

and responses to Respondents' data requests will be useful in, and potentially shorten, the depositions of the complainants that Respondents intend to schedule soon.

3. Pursuant to the Commission's order, Respondents submit this response to Ms. Orler's motion to compel. Having reviewed the two data requests submitted by Ms. Orler, Respondents contend that the responses supplied are complete. Respondents supplied Ms. Orler with a membership listing for the Big Island Homeowners Association and the listing of individuals being billed for service. The listing, based upon counsel's information and belief, includes information generated from 2000 to the present. Respondents also supplied executed copies of the Declarations and Covenants and Restrictions, as amended, and by-laws of the Association. Nothing else was requested in the data requests served by Ms. Orler.

4. In her letter dated May 16, 2006, which is attached to Ms. Orler's motion, she claims that her two previously served data requests include requests for the following:

- a. Signed copies of ratification documents of the "Covenants and Conditions," and signed copies of the "Amended and Restated Declaration of Covenants and Conditions," bearing the signatures of the individuals agreeing to the terms of such Covenants.
- b. Copies of individual bills, billing statements, invoices, assessments and or any communications requesting the payment of dues, assessments, rates; or any service and/or product associated with the water and sewer utility, for which a monetary sum is being charged, and payment is expected.

5. Respondents have attached as Exhibit 1 to this response to order copies of Ms. Orler's two data requests in this matter. The information described in the foregoing paragraph and its subparagraphs is not requested in either of her data requests. Ms. Orler has not submitted

a data request for this information. Since no discovery request for this information has been submitted to Respondents, they are not, and have not been, under a duty to produce it. Therefore, Ms. Orler's motion should be denied.

6. By suggesting that her motion to compel should be denied, Respondents do not suggest that Ms. Orler is precluded from reducing these new requests for information to data request form which in turn Respondents may evaluate for objections in due course, or to which Respondents may supply other appropriate responses.

WHEREFORE, Respondents respectfully request that Ms. Orler's motion to compel be denied without prejudice to Ms. Orler's ability to file new data requests for this information. Respondents also request that the Commission grant their motion to compel without delay.

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

**/s/ Charles E. McElyea by Michael A. Carter**

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 Folsom Ridge, L.L.C, and Big Island  
Homeowners Water and Sewer Association, Inc.,  
f/k/a Big Island Homeowners Association, 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 1<sup>st</sup> day of June, 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,  
Dean Leon Fortney, P.O. Box 1017, Louisburg, KS 66053,  
Judy Kenter, 1794 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, 371 Andrews Trail Court, St. Peters, MO 63376,  
Ben F. Weir, 3515 SW Meyer Blvd., Blue Springs, MO 64015,  
Duane Stoyer, 702 Ridgeview Dr., Washington, MO 63090.

**/s/ Mark W. Comley**