

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF
MISSOURI

Cathy J. Orler,)	
)	
Complainant,)	
)	
v.)	Case No. WC-2006-0082, et al.
)	
Folsom Ridge, LLC, (Owning and))	
Controlling the Big Island))	
Homeowners' Association),))	
)	
Respondent.))	

**COMPLAINANTS' OBJECTION TO FOLSOM RIDGE LLC AND BIG ISLAND
HOMEOWNERS WATER AND SEWER ASSOCIATION'S REQUEST TO DENY
MS. ORLER'S MOTION TO ADD THE DEPARTMENT OF NATURAL
RESOURCES AS A PARTY AND AMEND PROCEDURAL SCHEDULE TO
REFLECT STATUS PRIOR TO STAY**

On February 06, 2007, Respondents filed a "Response of Folsom Ridge LLC and Big Island Homeowners Water and Sewer Association to Ms. Orler's Motions to Join the Missouri Department of Natural Resources and to Amend the Procedural Schedule."

Motion to Add DNR as a Party

1. Respondents oppose Ms. Orler's motion to join the Missouri Department of Natural Resources as a party to this action, on the grounds that the Department was and is being deposed in this case.

Unless the Respondents are planning to depose every single employee of The DNR, how do the Respondents know which individuals might need to be called to testify in this case? Simply because the Department is being deposed by the Respondents in this case, is not reason to deny adding the Department as a party.

In addition, a request by interveners in the Application case to the Department to provide testimony at the hearing scheduled in the Application case, proved that the Department's "...commitment to having knowledgeable witnesses available as needed," would not be honored, and subpoenas became necessary in ensuring that representatives of DNR would be available as witnesses.

Furthermore, in anticipation by the Complainants, of another "Motion to Quash Subpoenas," by the Respondents, and since time is of the essence, Complainants feel adding the Department will be more efficient in the process.

Motion To Amend Procedural Schedule

1. Complainants would like to remind Mr. Comley and the Commission, that it was Mr. Comley who requested to suspend the complaint proceedings in this case in the "Respondents' Motion for an Order Suspending Proceedings," filed on June 16, 2006. Mr. Comley's request came only

approximately 1, (one), month prior to the hearing date scheduled in this case of July 17 -21, 2006. If Mr. Comley feels exclusively inconvenienced by his request to suspend the proceedings in this case, Complainants make the assertion that the Complainants as well as the Commission, have been prepared two, (2), times previously for hearings in these cases, (a hearing scheduled in this case and a hearing scheduled in the Application case), and the proceedings in both cases, have been delayed, suspended, and/or cancelled at the requests of Mr. Comley. On April 24, 2006, an "Order Adopting Procedural Schedule," was issued in this case. Since the "Big Island Homeowners Association, Inc., did not join in the proposed Procedural schedule, ...and ...the Association has not filed a competing proposal within the time allowed by a previous Commission order, it will be required to abide by the terms of the schedule that the Commission adopts." The terms adopted by the Commission, allowed for live testimony in this case.

2. Furthermore, in Mr. Comley's request to deny, he states that "having live testimony as a part of the complaint proceeding and written testimony as part of the asset transfer application case in Case No. WO-2007-0277 will hamper the progress of the hearing and confuse the process." Complainants suggest that Mr. Comley should have given thought to this matter when he submitted the application to transfer utility assets, and asked the Commission to act on the application to transfer assets in time to allow the transaction to occur by March 31, 2007.
3. Mr. Comley also states that there are eight, (8) complainants in this matter and all are pro se parties. Complainants do not dispute this fact, since this situation has remained unchanged for nearly eighteen, (18), months now, except to mourn the loss and passing of one Complainant Mr. Duane Stoyer. It would seem that during the eighteen, (18), month period that

these cases have been before the Commission, this has allowed Mr. Comley sufficient and adequate time to prepare for pro se litigants in these proceedings.

4. Additionally, Mr. Comley states: "Unless the written testimony rule is applied in this case, Respondents are left to guess who among the Complainants, if not all, will be testifying and about what subject." Why did Mr. Comley not raise this issue in the year 2006, when the Commission adopted the procedural schedule in this case? It would be the hope of all Complainants in this case, that after nearly eighteen, (18) months in these proceedings before the Commission, that the Respondents by now, would have some idea(s) as to the issues the Complainants will be testifying to; and if there is still doubt among the Respondents, the Complainants suggest reading the Formal Complaints filed by the Complainants with their attachments, as well as the numerous pleadings with exhibits that have been filed in these cases during the eighteen, (18), months these proceedings have lingered before the Commission.
5. Mr. Comley also notes that "The applications to intervene have been submitted on a form that does not comply with the Commission's rules. Contact information is incomplete." Complainants confirm to the Commission, that the information required by the Commission to intervene, and the information provided to the Commission by interveners, does indeed comply with the Commission's rules, per 4 CSR 240-2 – Department of Economic Development; Division 240 – Public Service Commission, Chapter 2 – Practice and Procedure: 4 CSR 240-2.075 Intervention, as provided by the Public Service Commission. Furthermore, applications to intervene in the Application case utilized this same format, to which Mr. Comley did not object.

6. Mr. Comley refers to the time restraints in these matters, (imposed by Mr. Comley himself in his request to the Commission to act on the application to transfer assets in time to allow the transaction to occur by March 31, 2007), and the inexperience of the individual applicants. Complainants point out, that nowhere in the Commission rules does it state that applicants to intervene must be experienced. If the lack of experience by the intervening applicants, "will adversely and unfairly affect the Respondents' rights to discovery and their ability to prepare for hearing," (according to Mr. Comley), then perhaps, it is Mr. Comley whom is inexperienced.

It is the opinion of the Complainants, that Mr. Comley's comments as justification to support of his requests to the Commission to deny the "Motion to Add the Department of Natural Resources as a Party and Motion to Amend Procedural Schedule," are frivolous and injudicious, as well as being imprudent at best.

Wherefore, Complainants object to the Respondents' request to deny Ms. Orlor's "Motion to Add the Department of Natural Resources As a Party and Amend the Procedural Schedule to Reflect Status Prior to Stay."

Respectfully submitted,

Joseph J. Schride

Sign Sanchez

Cathy J. Allen

Benjamin D. Pugh