

**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	)	

**APPLICANT’S RESPONSE TO INTERVENERS’ OBJECTION TO SUSPENSION OF  
THE PROCEDURAL SCHEDULE; OBJECTION TO TRANSFER OF UTILITY  
ASSETS; REQUEST TO REOPEN CASE NO. WC-2006-0082 AND SUBMISSION OF A  
RECEIVER FOR COMMISSION CONSIDERATION**

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

1. On or about December 8, 2006, Joseph Schraeder, Stan Tamares, Cindy Fortney, Cathy Orler and Benjamin Pugh, interveners in this matter (hereinafter “Intervenors”), joined in a filing styled: *Intervenors’ Objection To Suspend Procedural Schedule And Objection To Transfer Of Utility Assets To An Unregulated Entity; Intervenors’ Request To Reopen Complaint Case No. WC-2006-0082 et.al; Intervenors’ Submission Of Receiver To Commission For Consideration* (for the sake of brevity this filing will be referred to as “*Intervenors’ Objections*”) This raft of objections and requests was filed in response to Big Island’s solitary Motion to Suspend the Procedural Schedule.

2. The Motion to Suspend the Procedural Schedule was filed because the same assets Big Island is presently under contract to purchase may be sold to nonprofit water and sewer corporations formed under select statutes of Chapter 393 that are not subject to the jurisdiction of the Commission. If that sale closes, this application will become obsolete. The Motion to Suspend was filed in an effort to avoid expenditures of time and money by Staff and

the other parties in complying with deadlines in a case that may be dismissed.

3. First, Big Island must clarify errors in *Intervener's Objections*. In several places the Interveners refer to Mr. Golden and Mr. Rusaw as parties filing motions and making statements in this case, and in the complaint case <sup>1</sup> that prompted it. The record will confirm that no people by that name are parties in this case or in the complaint case. Neither person is a witness in this case. Big Island filed the Motion to Suspend the Procedural Schedule. The Interveners are responding to a filing made by the Applicant in this case, and not a filing by nonparties.

4. Interveners object to suspension of the procedural schedule in this case. They appear to argue that suspension for purposes of transferring the water and sewer assets on Big Island to “the same type of unregulated” nonprofit corporation that owns and operates them now is not justified. There is no merit to the objection. Big Island filed this application in response to complaints filed by these Interveners in Case No. WC-2006-0082. As complainants, the Interveners pleaded for a **regulated company** to undertake service. Once granted intervention in this case, Interveners nonetheless **objected** to the application. They are not the only residents on Big Island and other residents affected by 1) the complaints and 2) the Interveners’ positions in this case have formed nonprofit corporations that are **legally and categorically different** from the Association in order to provide service through locally owned and operated organizations which by law are beyond the jurisdiction of the Commission. Big Island cannot disregard a change in circumstances caused by Interveners’ objections to certification in this case, and by the many other local residents who are interested in resolving the controversy by a resident governed utility.

5. The Association supplies safe and adequate service to the residents on Big Island

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<sup>1</sup> Case No. WC-2006-0082.

and there is nothing suggesting that a nonprofit sewer company and nonprofit water company formed under the provisions of Chapter 393 will do anything less. The Interveners' objection to suspending the procedural schedule should be overruled.

6. The Interveners go on to state objections to the transfer of assets referred to in Applicant's Motion to Suspend on grounds that the transfer purports to convey their own property. This is no ground to deny the Applicant's Motion to Suspend the Procedural Schedule. The negotiations related to the transfer of assets are collateral to this proceeding and do not involve the parties herein. Furthermore, it is Applicant's understanding, as reported before, that the assets involved in the transaction with Big Island Sewer Company and Big Island Water Company are the same as those described in the Asset Purchase Agreement involved in this application. No property of the Interveners is involved in either transaction.

7. Interveners also ask that the Commission reopen Case No. WC-2006-0082. This should be denied. First, the request has been filed in the wrong case. The parties to WC-2006-0082 are different from the parties herein. Moreover, if that case is revived and the procedural schedule is not suspended in this case, Staff and Interveners, as well as this Commission will have duplicate cases pending with duplicate duties and responsibilities. The suspension was designed to avoid duplication of expensive tasks. If the transaction closes as expected between the newly created nonprofits, Folsom Ridge LLC and the Association, the instant case will in all practicality become meaningless and should be dismissed. Its dismissal will be a significant factor in how Case No. WC-2006-0082 should then be disposed, and that subject should be taken up under the caption of that case and not this one.

8. Finally, Interveners offer the commission a receiver to consider. Again, the motion before the Commission is for suspension of the procedural schedule. Interveners offer no

reasoning on how a receiver would help in granting the motion. Most importantly, since there is in actuality no basis upon which a receiver can be appointed here, Mr. Cover's letter has but limited usefulness as a gratuitous reminder of his availability in proper receiverships.

WHEREFORE, Applicant renews its request that the procedural schedule be suspended as argued in its motion, and that the objections raised by the Interveners be denied without delay.

Respectfully submitted,

/s/ Mark W. Comley

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ATTORNEYS FOR BIG ISLAND WATER AND SEWER  
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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 18<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:

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