

**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, et al.
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)	

**RESPONSE TO INTERVENORS' REQUEST
TO ATTACH LIEN OR FREEZE ASSETS**

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

1. On October 5, 2006, several intervenors filed a request that the Commission attach a lien or freeze the "Big Island utility assets" to prevent their transfer until certain events named in the request had concluded. The request has no merit and should be denied.

2. Although the Commission may prescribe rules and regulations regarding when public utilities may create liens on their property; Section 393.180, RSMo. 2000; the Commission has no authority to impose liens on any real property.

3. The Commission has authority to approve transfers of utility works and systems, and if that type of utility property is transferred without Commission authorization the transaction is void as a matter of law. Section 393.190.1 RSMo. 2000. The Commission has no authority to freeze assets whether they are held by a utility, an applicant for certification or some other party. Enjoining the trade of property is a form of injunction which the Commission is powerless to enter. *State Tax Commission v. Administrative Hearing Commission*, 641 S.W.2d 69, 75 -76 (Mo.banc 1982)(the Public Service Commission has no power to declare any principle of law or equity). Only the courts can issue injunctions.

WHEREFORE, Big Island Water & Sewer Company, Inc., prays the Commission deny

intervenors' request for attachment of a lien on and a freeze on transfer of assets.

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 12th day of October, 2006, 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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