

**NEWMAN, COMLEY & RUTH P.C.**

ATTORNEYS AND COUNSELORS AT LAW

601 MONROE STREET, SUITE 301

P.O. BOX 537

JEFFERSON CITY, MISSOURI 65102-0537

TELEPHONE: (573) 634-2266

FACSIMILE: (573) 636-3306

www.ncrpc.com

ROBERT K. ANGSTEAD  
ROBERT J. BRUNDAGE  
MARK W. COMLEY  
LANETTE R. GOOCH  
CATHLEEN A. MARTIN

MARTIN A. MILLER  
STEPHEN G. NEWMAN  
THOMAS R. O'TOOLE  
JOHN A. RUTH  
ALICIA EMBLEY TURNER

**FILED**<sup>4</sup>

MAY 15 2006

May 15, 2006

Missouri Public  
Service Commission

The Honorable Colleen M. Dale  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Case Nos. WC-2006-0082, et al.

Dear Judge Dale:

Please find enclosed for filing in the referenced matters an original and five copies of the following documents:

1. Respondent's Response to Complainants' Separate Requests for a "Certificated" Company to Provide Regulated Service on Big Island; and
2. Motion to Compel and Motion to Waive Requirements of 4 CSR 240-2.090(8).

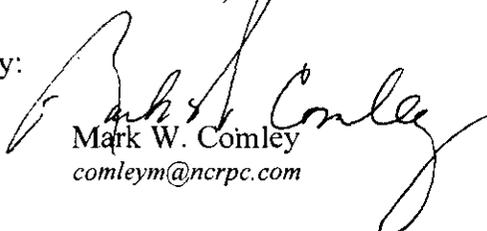
Would you please bring these filings to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley  
comleym@ncrpc.com

MWC:kjh  
Enclosures

The Honorable Colleen M. Dale  
May 15, 2006  
Page 2

cc: Office of Public Counsel  
General Counsel's Office  
Cathy Orlor  
Cindy Fortney  
Dean Leon Fortney  
Judy Kenter  
Benjamin D. Pugh

Joseph J. Schrader  
Stan Temares  
Ben F. Weir  
Duane Stoyer  
Charles E. McElyea  
Reginald V. Golden

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

Cathy J. Orlor, et al. )  
 )  
Complainants, )  
v. )  
 )  
Folsom Ridge, LLC, )  
 )  
and )  
 )  
Big Island Homeowners )  
Water and Sewer Association, Inc., )  
f/k/a Big Island Homeowners )  
Association, Inc. )  
 )  
Respondents. )

Case No. WC-2006-0082, et al.

**FILED<sup>4</sup>**

MAY 15 2006

Missouri Public  
Service Commission

**MOTION TO COMPEL AND  
MOTION TO WAIVE REQUIRMENTS OF 4 CSR 240-2.090(8)**

Comes now Folsom Ridge LLC and Big Island Homeowners Water and Sewer Association, Inc., f/k/a Big Island Homeowners Association, Inc. and respectfully submit the following to the Commission:

1. On April 10, 2006, the Respondents caused to be served on each complainant a first set of data requests. Each set was identical with the exception of the named complainant to which the data requests were directed and for reference, the set of data requests served on Mr. Pugh are attached.

2. On April 20, 2006, each complainant filed objections to the data requests on grounds including that the questions were "subjective" and "open ended" or that if answered "they may affect the credibility of the complainant." No answers have been filed and they are overdue.

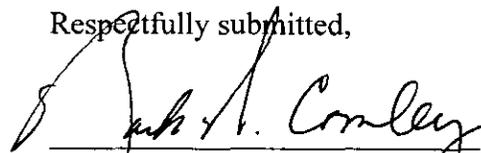
3. The data requests are each proper, are similar if not identical to data requests approved by this Commission in previous cases and are all reasonably calculated to lead to the discovery of admissible evidence.

4. None of the objections or remarks offered by complainants justify their failure to answer the data requests and complainants should be compelled to respond.

5. Commission Rule 4 CSR 240-2.090(8) generally requires that the parties try to confer with each other before filing a discovery motion of this type. Since the complainants are not represented by counsel, arranging for such a telephone conference is overly difficult and awkward. Furthermore, the Commission has not insisted on compliance with this rule with respect to similar motions filed by the complainants or one of their membership. On this basis, Respondents respectfully move the Commission to waive the requirements of this rule and proceed to a ruling on this motion to compel, and if necessary, schedule a hearing at which to consider the merits.

6. The Commission has entered a procedural order in this case. Timely answers to these data requests are important to the fairness of this schedule and respondents ability to prepare generally for hearing. Respondents reserve their rights to move for continuance of this matter if the answers to data requests are not timely received.

Respectfully submitted,



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

*Charles E. McElyea by [signature]*

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 15th day of May, 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 Orlor, 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.

*[Signature]*  
\_\_\_\_\_

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

Cathy J. Orler, et al.	)	
	)	
Complainants,	)	
v.	)	Case No. WC-2006-0082, et al.
	)	
	)	(Case No. WC-2006-0090)
Folsom Ridge, LLC,	)	
	)	
and	)	
	)	
Big Island Homeowners	)	
Water and Sewer Association, Inc.,	)	
f/k/a Big Island Homeowners	)	
Association, Inc.	)	
	)	
Respondents.	)	

**RESPONDENTS' FIRST SET OF DATA REQUESTS  
TO COMPLAINANT BENJAMIN D. PUGH**

COME NOW respondents and propound to Complainant Benjamin D. Pugh the following data requests to be answered within twenty days after service thereof pursuant to Commission rule. These data requests are of a continuing nature requiring you to file supplemental answers and responses setting forth any additional or different information within the scope of these data requests as may be acquired by you, your agents, attorneys or representatives following your original responses.

**DEFINITIONS**

As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge.

The pronoun "you" or "your" refers to the complainant named above, his/her employees, contractors, agents or others employed by or acting in his or her behalf.

The term "Commission" shall mean and refer to the Missouri Public Service Commission.

The term "Big Island" shall mean and refer to that region referred to as Big Island, Lake of the Ozarks, and further described in the complaint and in respondents' answers.

Where identification of a person is requested, state that person's name, business address, position of employment and telephone number. Where identification of a document is requested,

briefly describe the document (e.g. book, letter, memorandum, report, email) and state the following information as applicable for the particular document: name, title, number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document.

### DATA REQUESTS

1. State your full name, including any and all names by which you have ever been known, your address, date of birth, operator and/or chauffeur's license number, and marital status, including with your response the name of any present or previous spouses.

RESPONSE:

2. State:
- A. your present address and the length of time you have resided at that address;
  - B. any other addresses at which you have lived during the past ten years.

RESPONSE:

3. Give the name and address of your present employer, your occupation or job title, your job duties or responsibilities, the date such employment began, and the name of your immediate supervisor.

RESPONSE:

4. If you have had any employment within the past five years other than as shown in your RESPONSE to interrogatory number 3, then state the names and addresses of all other employers for whom you have worked during the past ten years, your occupation or job title with each, your job duties or responsibilities with each, the beginning and ending dates of each such employment and the name of each of your immediate supervisors.

RESPONSE:

5. If you are now or have during the past five years been self-employed, please state the

date of such self-employment, the location of the business, the name of the business, and the nature of your business.

RESPONSE:

6. State in chronological order all schools, colleges, universities, trade schools or other institutions of learning you have attended and for such institution state:

- A. the name and address of each such institution;
- B. the dates of your attendance;
- C. the highest grade completed;
- D. all degrees awarded you and the name of the institution from which such degree was obtained; and
- E. any and all scholastic honors, awards or recognition you received stating when, where and from whom.

RESPONSE:

7. State whether any photographs have been taken which purport to depict any of the conditions, facts or circumstances alleged in your complaint. If yes, state the date the photographs were taken, the place where the photographs were taken, the name, address and relationship to you of the person taking said photographs, a general description or depiction of each photograph and the present location and name and address of the person in whose custody said photographs are presently placed.

RESPONSE:

8. Please state the name and address of each person whom you expect to call as an expert witness at hearing of this matter and state the general nature of the subject matter in which each expert is expected to testify. In addition, state the occupation, place of employment and qualification to give any such opinions for each such expert and, in addition, please attach a copy of each such expert's curriculum vitae (CV) to your response to these data requests. Also, state each such expert's hourly deposition fee.

RESPONSE:

9. State the names and addresses of non-retained expert witnesses you anticipate calling upon trial of the above-entitled action and state briefly the subject matter to which you expect each such non-retained expert to testify. In addition, state the occupation, place of employment and qualification to give any such opinions for each such expert and, in addition, please attach a copy of each such expert's CV to your response to these data requests. Also, state each such expert's hourly deposition fee.

RESPONSE:

10. Have you ever been a party in any other legal action, as a defendant, plaintiff or intervener or other classification, including criminal cases? If so, state:

A. The date and place each such action was filed, giving the name of the court, the name of the other party or parties involved, the number of such actions, and the names of the attorneys representing each party;

B. The nature of each such action; and

C. For each criminal case, please state whether you have ever been convicted of, pleaded guilty to, or received a suspended imposition of sentence for, a felony or misdemeanor. If so, please describe the offense to which the conviction, guilty plea or suspended sentence was made or entered.

RESPONSE:

11. Have you paid either of the respondents in this complaint a fee for the right or privilege to connect to a water or sewer system (a connection fee.). If yes, state the amount of the connection fee, the date it was paid and to which respondent it was paid.

RESPONSE:

12. Are you paying either of the respondents in this complaint for sewer service or water service. If so, state the amount you pay, for what services or reasons it is paid, when it is paid and to which respondent it is paid.

RESPONSE:

13. If either respondent, or any company affiliated with either respondent, is certificated and approved by the Commission to provide water and/or sewer service, do you intend to take service from the certificated entity. If no, state the reasons why you do not intend to take service.

RESPONSE:

14. Does the Commission have the authority to approve just and reasonable rates for water and sewer service in Missouri.

RESPONSE:

15. Does the Commission have authority to approve certificates of public convenience and necessity for water and sewer companies.

RESPONSE:

16. Have you or any person acting on your behalf filed a complaint with the Commission or any other federal or state board, commission, department or political subdivision respecting: a) the quality of water distributed or delivered by either respondent; b) the adequacy of water pressure on any water system owned or operated by either respondent; c) the safety of either of the water or sewer services supplied over systems owned or operated by either respondent; d) the reliability of the water or sewer services supplied over systems owned or operated by either respondent. If yes, state the identity of the board, commission, department or political subdivision to which you made complaint; the date of the complaint, and its disposition. Provide a copy of the complaint as part of your response to this data request.

RESPONSE:

17. State each and every fact and circumstance upon which you rely in alleging that the respondents, or either of them, are in violation of the Missouri Public Service Commission Law.

RESPONSE:

18. If either respondent, or a company affiliated with one or both of the respondents, is approved by the Commission to offer and provide sewer service on Big Island, will this satisfy your complaint. If not, state why not.

RESPONSE:

19. What relief do you want the Commission to enter to satisfy your complaint?

RESPONSE:

20. If you obtained any information or assistance from any person(s) in preparing your responses to these data requests, then for each data request, please state the name, address, telephone number, employer and job title of each person providing information to or assisting you.

RESPONSE:

21. If you utilized any documents or tangible things in preparing your responses to these data requests then, for each data request, identify each such document or tangible thing utilized and the name, address, telephone number, employer and job title or position of the custodian of each document or tangible thing.

RESPONSE:

Respectfully submitted,

---

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

---

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 by U.S. Mail, postage prepaid, to Benjamin D. Pugh, 1780 Big Island Drive, Roach, MO 65787, on this \_\_\_\_\_ day of April, 2006.

STATE OF MISSOURI     )  
                                  )  
COUNTY OF \_\_\_\_\_ )     ss.

Benjamin D. Pugh, being duly sworn on his oath, states that the matters set forth in the foregoing responses to data requests are true and correct according to the best of his knowledge, information and belief.

\_\_\_\_\_  
Benjamin D. Pugh

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public

My Commission expires:

\_\_\_\_\_