

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

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

**ORDER REQUIRING CLARIFICATION OF MOTION FOR**  
**RECONSIDERATION**

Issue Date: February 13, 2007

Effective Date: February 13, 2007

On February 13, 2007, Cathy Orler, one of several individual complainants in this matter, filed a motion seeking urgent reconsideration of the Commission's February 8, 2007 "Order Denying Motion to Amend Procedural Schedule to Permit Live Testimony But Allowing Additional Time to File Written Direct Testimony." Ms. Orler asserts that because of geographical and logistical limitations of individuals expected to be utilized as witnesses by the "Complainants," and because of the hostile nature of some of those witnesses due to their opposition to PSC regulation, that "Complainants" are unable to prefile direct testimony from these individuals within the deadline set by the Commission, i.e. February 13, 2007. Ms. Orler further alleges that the Commission's order requiring all parties to prefile direct testimony is impractical and denies "Complainants" the due process of law.

As an initial matter, the Commission notes that Ms. Orler cannot represent any other person, party, or entity in this matter, not being an attorney authorized to practice law in the state of Missouri. Consequently, Ms. Orler may only raise such issues or assert such rights in the context of her own witnesses, and her use of the plural "Complainants" throughout her request will be disregarded.

Commission Rule 4 CSR 240-2.160 addressing motions for reconsideration or rehearing provides:

- (1) Applications for rehearing may be filed pursuant to statute.
- (2) Motions for reconsideration of procedural and interlocutory orders may be filed within ten (10) days of the date the order is issued, unless otherwise ordered by the commission. Motions for reconsideration shall set forth specifically the ground(s) on which the applicant considers the order to be unlawful, unjust, or unreasonable.
- (3) The filing of a motion for reconsideration shall not excuse any party from complying with any order of the commission, nor operate in any manner to stay or postpone the enforcement of any order, unless otherwise ordered by the commission.
- (4) The commission may correct its own orders *nunc pro tunc* as provided by law.

Ms. Orler's motion was timely filed, but it should be noted that her motion does not excuse her from complying with Commission's February 8, 2007 Order, nor does it operate in any manner to stay or postpone the enforcement of that order. The earliest the Commission will be able to address her request will be at the Agenda Meeting scheduled for Thursday, February 15, 2007. Consequently, Ms. Orler shall make all possible attempts to comply with the Commission's order to provide the testimony of any witness that she may be able to acquire, either in person or by use of any electronic means or telephonic contact.

The Commission's rule also requires the movant to state, with particularity, the grounds on which the applicant considers the order to be unlawful, unjust, or unreasonable. While Ms. Orlor states that she believes the Commission's order is impractical and denies her due process, she does not address these concerns with sufficient particularity for the Commission to be able to rule on her motion in its current form.

Ms. Orlor shall be directed to file a pleading with the Commission providing the following information:

- a. A list of all prospective witnesses, names and addresses, for which Ms. Orlor believes she will be unable to obtain direct testimony to prefile.
- b. A statement for each named prospective witness explaining why no other means is available to obtain that witness's testimony, i.e. why a list of questions could not be tendered to this witness via mail, facsimile, e-mail, or by telephonic contact, and why that witness could not respond and verify that testimony by affidavit.
- c. A separate list of the prospective witnesses identifying which ones have actually refused to provide direct testimony so as to be classified as being hostile witnesses.

**IT IS ORDERED THAT:**

1. No later than midnight Wednesday, February 14, 2007, Cathy Orlor shall file, with the Commission, a pleading as directed in the body of this order.
2. No later than midnight Wednesday, February 14, 2007, Cathy Orlor shall e-mail a copy of the pleading as described in ordered paragraph 1, in Microsoft Word format, to the Regulatory Law Judge in this matter at [harold.stearley@psc.mo.gov](mailto:harold.stearley@psc.mo.gov).

3. This order shall become effective on February 13, 2007.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Harold Stearley, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 13th day of February, 2007.