

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 11th day of
January, 2006.

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

**ORDER LIFTING SUSPENSION OF PROCEEDINGS, DENYING MOTION
TO BLOCK THE SALE OF ASSETS, AND SCHEDULING A
PREHEARING CONFERENCE**

Issue Date: January 11, 2007

Effective Date: January 11, 2007

In August and September, 2005, eight individual complainants filed complaints against Folsom Ridge, LLC, owning and controlling the Big Island Homeowners Association. The complaints alleged that Folsom Ridge, a property development company, was illegally operating a water and sewer system providing service to the public without a certificate of convenience and necessity from this Commission. The complaints alleged that the Homeowners Association was merely a captive entity doing the bidding of Folsom Ridge. As the case progressed, Big Island Homeowners Water and Sewer Association, f/k/a Big Island Homeowners Association, Inc., was added as a separate respondent.

On June 16, 2006, Big Island Water & Sewer Company, Inc., a company that is affiliated with Folsom Ridge, filed an application for a certificate of convenience and necessity to operate the water and sewer system currently being operated by Folsom Ridge and the Homeowners Association. That application is currently pending in Case No. WA-2006-0480, and is set for hearing beginning on February 5, 2007. On June 27, in response to the filing of the application for certificate, the Commission suspended the proceedings in the complaint cases until the certificate case could be resolved.

On December 26, five of the Complainants¹ filed a motion asking the Commission to remove the suspension of the proceedings in the complaint cases and to issue a determination that the utility being operated by Folsom Ridge and the Homeowners Association is subject to regulation by the Commission. The Complainants are concerned that Big Island Water and Sewer Company has stated that Folsom Ridge and the Homeowners Association are negotiating to sell their water and sewer system assets to newly formed nonprofit water and sewer corporations. If that sale occurs, Big Island Water and Sewer Company would dismiss its application and the water and sewer system would be operated by the nonprofit water and sewer corporations, which would not be subject to regulation by the Commission. The Complainants object to that transaction, and on January 4, filed a motion asking the Commission to block the sale of the water and sewer system assets to the nonprofit water and sewer corporations. Folsom Ridge and the Homeowners Association filed a response on January 5, in which they oppose the Complainants' motions, while confirming that they are negotiating to sell their water and sewer system assets to the newly formed nonprofit water and sewer corporations.

¹ The complainants who signed the motion are Joseph Schrader, Stan Temares, Cindy Fortney, Cathy Oler, and Benjamin Pugh.

This Commission is not a court, and clearly does not have any authority to issue an injunction, or otherwise directly stop the sale of assets to the nonprofit water and sewer corporations. For that reason, the Complainants' motion seeking that relief must be denied. However, the Commission notes that Section 393.190.1, RSMo 2000, provides that water and sewer corporations may not sell their water or sewer systems without approval from the Commission. Furthermore, that statute states that any such sale of assets made without the approval of the Commission is void. If, as the Complainants allege, Folsom Ridge and the Homeowners Association are operating a water corporation and a sewer corporation as defined by statute, then they will need the approval of the Commission before selling those assets.

Clearly, the uncertainties surrounding this situation need to be resolved as soon as possible. Bringing these complaints to a resolution appears to be the best means of doing so. Therefore, the Commission will lift the suspension of these proceedings. The Commission will also schedule a prehearing conference to give the parties an opportunity to discuss how best to proceed.

IT IS ORDERED THAT:

1. The suspension of proceedings in this case is lifted.
2. The Complainants' motion to halt the sale of assets to Big Island Water Company and Big Island Sewer Company, the nonprofit water and nonprofit sewer corporations, is denied.
3. A prehearing conference shall be held on January 24, 2007, beginning at 10:00 a.m., in Room 315 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. This conference will be held in a building that meets accessibility

standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the conference. You may participate in this conference by telephone by dialing 573-522-6044, at the start of the conference.

4. This order shall become effective on January 11, 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)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur

Woodruff, Deputy Chief Regulatory Law Judge