

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Cathy J. Orler,)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-2006-0082, et al.</u>
)	
Folsom Ridge, LLC, Owning and Controlling)	
the Big Island Homeowners Association,)	
)	
Respondent.)	
In the Matter of the Application of Big Island)	
Water & Sewer Company for a Certificate of)	
Convenience and Necessity Authorizing It to)	
Construct, Install, Own, Operate, Control, Manage)	<u>Case No. WA-2006-0480, et al.</u>
and Maintain a Water and Sewer System for the)	
Public Located in an Unincorporated Area in)	
Camden County, Missouri.)	
In the Matter of the Application of Folsom Ridge,)	
LLC, and Big Island Homeowners Water and Sewer)	
Association, Inc., for an Order Authorizing the)	
Transfer and Assignment of Certain Water and)	<u>Case No. WO-2007-0277</u>
Sewer Assets to Big Island Water Company and)	
Big Island Sewer Company, and in Connection)	
Therewith Certain Other Related Transactions.)	

ORDER ACKNOWLEDGING WITHDRAWAL OF APPLICATION AND
DISMISSING CASE NO. WA-2006-0480 AND ORDER ADOPTING JOINT
PROCEDURAL SCHEDULE FOR CASE NOS. WC-2006-0082 AND
WO-2007-0277

Issue Date: January 26, 2007

Effective Date: January 26, 2007

These proceedings began in August and September, 2005, when 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 new 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, 2006, 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 January 23, 2007, Folsom Ridge and Big Island Homeowners Water and Sewer Association filed a joint application asking the Commission to approve the transfer of water and sewer system assets to the Big Island Water Company and the Big Island Sewer Company, recently formed non-profit corporations, organized under the provisions of Sections 393.825 to 393.861 and 393.900 to 393.954, RSMo 2000. That application was assigned Case No. WO-2007-0277.

The water and sewer system assets that are to be transferred to the non-profit corporations are the same assets that were to be transferred to Big Island Water & Sewer Company, the applicant in Case No. WA-2006-0480. The day after the new application

was filed, January 24, 2007, Big Island Water & Sewer Company filed a motion in Case No. WA-2006-0480 indicating that it no longer wants to acquire the water and sewer assets in question and asking leave to withdraw its application and to voluntarily dismiss that case.

Commission Rule 4 CSR 240-2.116(1) requires the granting of leave from the Commission before an application may be dismissed after evidence has been offered or prepared testimony filed. Prepared testimony has been filed in Case No. WA-2006-0480, so Big Island Water & Sewer Company's application cannot be dismissed without leave of the Commission. Since Big Island Water & Sewer Company no longer wants to operate a water and sewer system and no longer wants a certificate from this Commission, there is no reason to proceed with Case No. WA-2006-0480 and that case will be dismissed. The remaining procedural schedule for that case, including the hearing beginning on February 5, 2007, will be canceled.

In Case No. WO-2007-0277, Folsom Ridge and Big Island Homeowners Water & Sewer Association ask the Commission to act on their application to transfer assets in time to allow the transaction to occur by March 31, 2007. The complaints pending in Case No. WC-2006-0082 relate to the same issues that will be before the Commission in Case No. WO-2007-0277 and must also be resolved before the Commission can act on the application to transfer assets. Therefore, the Commission will establish a joint procedural schedule to resolve both cases. The cases will not be formally consolidated, but they will be heard at the same time. Any parties that are allowed to intervene in Case No. WO-2007-0277 will be required to comply with this joint procedural schedule.

The Commission finds that the following conditions should be applied to the joint procedural schedule:

(A) The Commission will require that testimony be prefiled as defined in Commission Rule 4 CSR 240-2.130. All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.

(B) The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. Any issue not contained in this list of issues will be viewed as uncontested and not requiring resolution by the Commission.

(C) Each party shall file a simple and concise statement summarizing its position on each disputed issue.

(D) All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 4 CSR 240-2.080.

(E) All parties are required to bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the party offering it should bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.

(F) Because of the short amount of time available and the need for prompt resolution of these matters, the Commission will not require post-hearing briefs. Instead, the Commission will hear oral arguments at the close of the evidentiary hearing.

IT IS ORDERED THAT:

1. Big Island Water & Sewer Company, Inc., is given leave to dismiss its Application pending in Case No. WA-2006-0480.

2. The procedural schedule for Case No. WA-2006-0480, including the hearing beginning on February 5, 2007, is canceled.

3. The following joint procedural schedule for Case Nos. WC-2006-0082 and WO-2007-0277 is established:

Direct Testimony	- February 9, 2007
Rebuttal Testimony	- February 16, 2007
Surrebuttal Testimony	- February 23, 2007
List of Issues, List of Witnesses, Order of Cross-Examination, Order of Opening and Position Statements	- February 26, 2007
Hearing	- February 28, March 1 & 2, 2007, beginning at 8:30 a.m.

4. The hearing will be held at the Commission's office at the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

5. Case No. WA-2006-0480 shall be closed.

6. This order shall become effective on January 26, 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)

Morris L. Woodruff, Deputy Chief Regulatory
Law Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 26th day of January, 2007.