

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 31st 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 REGARDING PENDING MOTIONS, ADDING BIG ISLAND
HOMEOWNERS ASSOCIATION AS A RESPONDENT, AND DIRECTING
RESPONDENTS TO ANSWER**

Issue Date: January 31, 2006

Effective Date: January 31, 2006

Nine separate complaints are currently pending against Folsom Ridge, LLC (owning and controlling the Big Island Homeowners Association). Each complaint is somewhat different, but all allege that Folsom Ridge, Big Island Homeowners Association, or some combination of the two, is operating a water and sewer utility that should be subject to regulation by this Commission. Because the complaints involve related questions of law and fact, the Commission consolidated the complaints into a single case. The Commission also directed its Staff to investigate the situation described in the complaints. Staff's report regarding the results of its investigation is due to be filed on February 9, 2006.

On November 1, 2005, the Commission issued an order scheduling a prehearing conference and holding all pending motions in abeyance until after the conference. The conference was held on December 8. Following the conference, the parties agreed that pending motions should continue to be held in abeyance until January 9, 2006. The Commission issued an order to that effect on December 16.

On January 9, Folsom Ridge filed a motion asking the Commission to schedule a second prehearing conference and to continue to hold the pending motions in abeyance. The complainants filed a response to that motion on January 19. The complainants contend that a second prehearing conference is not likely to be productive and they ask that the Commission rule upon the pending motions.

Staff filed a response to Folsom Ridge's motion and to the complainants' response on January 30. Staff expects that Folsom Ridge will submit a proposal to transform the existing water and sewer systems into a regulated water and sewer corporation. Staff recommends that a second prehearing conference be scheduled to consider Folsom Ridge's proposal.

A second prehearing conference is not appropriate at this time. If Folsom Ridge and Staff want to discuss a proposal for the existing water and sewer system to be transformed into a regulated corporation, they are free to do so at any time outside the confines of a formal conference. If Folsom Ridge wants to present such a proposal to the Commission, it may do so by filing an appropriate application, thereby creating a new case, which does not necessarily need to involve these individual complainants. Rather than delay resolution of these complaints while Staff and Folsom Ridge complete their discussions, the Commission will rule upon the pending motions and move forward.

The first group of pending motions is Folsom Ridge's requests for mediation that were filed in Case Numbers WC-2006-0120, WC-2006-0122, WC-2006-0138, and WC-2006-0139. The complainants have declined to mediate and the requests for mediation will therefore be denied.

The second group of pending motions is a Motion to Dismiss Complaint filed by Folsom Ridge in Case Numbers WC-2006-0090 and WC-2006-0107. The Commission denied an identical motion in Case Number WC-2006-0082 on October 18. Folsom Ridge's application for rehearing of the Commission's order denying that motion to dismiss has not been ruled upon and will be considered along with the other motions to dismiss.

In addition, on October 25, the Big Island Water and Sewer Association, Inc., f/k/a Big Island Homeowners Association, filed a limited and special entry of appearance challenging the Commission's jurisdiction. The Association alleged that it had never been named as a defendant, nor had it ever been properly served with a copy of the complaint, as required by Commission rule.

There has been a good deal of confusion in this case about whether these complaints are intended to be directed against the Association, as well as against Folsom Ridge. The initial complaints alleged that Folsom Ridge and the Association were one and the same entity. Cathy Orlor, the complainant in Case Number WC-2006-0082, clarified her position on November 4 by making it clear that she intended her complaint to be against both Folsom Ridge and the Association. In order to clear up any confusion, the Commission will add the Association as an additional respondent in each of these cases.

The Notices of Complaint that were served by the Commission were directed to Folsom Ridge and the Association at an address they share in Longmont, Colorado.

However, the caption of the complaint could create confusion about which entity was actually served. Therefore, the Commission will direct its Data Center to serve a copy of this order, along with a copy of the original complaints on the Association.

The unequivocal addition of the Association as a party to this case essentially moots the pending motions to dismiss. For that reason, and for the reasons stated in the Commission's order denying the motion to dismiss in Case Number WC-2006-0082, those motions will be denied. Folsom Ridge's motion for rehearing does not present sufficient reason to justify reconsideration of the order and it will be denied.

There is one more pending motion. On October 25, in Case Number WC-2006-0082, Folsom Ridge filed a Motion for More Definite Statement or Alternatively, Motion for Order Requiring Mediation. The Commission finds that the complaints sufficiently state the particulars of their allegations and that there is no need for a more definite statement. The request for mediation has already been addressed and will be denied.

At this point, neither Folsom Ridge nor the Association has filed an answer in any of these complaints. Therefore, the Commission will order Folsom Ridge and the Association to file their answers to each of the Complaints on or before March 2, 2006. Although the respondents will be required to answer each complaint separately, each answer must be filed in this consolidated case rather than in the closed case numbers originally assigned to the various cases.

IT IS THEREFORE ORDERED:

1. That the Big Island Water and Sewer Association, Inc., f/k/a Big Island Homeowners Association, Inc., is made a respondent to each of these complaints.

2. That the Commission's Data Center shall serve a copy of this order, along with a copy of each complaint on the Big Island Water and Sewer Association, Inc., f/k/a Big Island Homeowners Association, Inc.

3. That Folsom Ridge, LLC, and the Big Island Water and Sewer Association, Inc., f/k/a Big Island Homeowners Association, Inc., shall file their answers to each of these complaints no later than March 2, 2006.

4. That the pending requests for mediation are denied.

5. That the Motions to Dismiss Complaint filed by Folsom Ridge, LLC, in Case Numbers WC-2006-0090 and WC-2006-0107 are denied.

6. That the Application for Rehearing filed by Folsom Ridge, LLC, in Case Number WC-2006-0082 is denied.

7. That the Motion for More Definite Statement or Alternatively, Motion for Order Requiring Mediation filed by Folsom Ridge, LLC, in Case Number WC-2006-0082 is denied.

8. That this order shall become effective on January 31, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

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

Woodruff, Deputy Chief Regulatory Law Judge