

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 21st day of
December, 2006.

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)	

**ORDER DENYING MOTION TO SUSPEND PROCEDURAL SCHEDULE
BUT EXTENDING TIME TO FILE TESTIMONY**

Issue Date: December 21, 2006

Effective Date: December 21, 2006

Big Island Water & Sewer Company, Inc., has filed an application seeking a certificate of convenience and necessity to operate a water and sewer system in a portion of Camden County, Missouri, known as Big Island. The procedural schedule adopted on October 11, 2006, required the Commission's Staff, the Office of the Public Counsel, and the intervening parties, to file rebuttal testimony on December 15. On December 6, Big Island Water & Sewer Company filed a motion asking the Commission to suspend the procedural schedule.

Big Island Water & Sewer Company's motion explains that a group of Big Island residents have organized a nonprofit sewer company and a nonprofit water company for the purpose of operating the water and sewer system that is being used to provide service to the residents of Big Island. The water and sewer system that the nonprofit companies

intend to purchase is the same system that Big Island Water & Sewer Company intended to purchase and operate. If the nonprofit companies complete their purchase of the water and sewer system, then Big Island Water & Sewer Company would have no system to operate and would withdraw its application for a certificate. The nonprofit sewer and water companies would not be subject to regulation by this Commission.

Big Island Water & Sewer Company indicates that the sale of the water and sewer system to the nonprofit companies is likely to be completed within 40 to 50 days after December 6. Since it is likely to withdraw its application after the sale is complete, Big Island Water and Sewer Company asks the Commission to suspend the procedural schedule so that Staff, Public Counsel and the other parties are not required to waste their resources in filing rebuttal testimony and otherwise preparing for a hearing.

The motion to suspend the procedural schedule represents that Staff does not object to the motion. Public Counsel filed a response on December 7, indicating that it does not oppose the suspension of the procedural schedule. However, on December 11, five individual *pro se* intervenors¹ filed a pleading objecting to the motion to suspend the procedural schedule. The intervenors also object to the proposed sale of assets to the unregulated nonprofit companies and request that the Commission reopen the complaint cases pending in consolidated case number WC-2006-0082. Action on those complaints has been suspended while the Commission considers Big Island Water & Sewer Company's application for a certificate. Because the December 15 deadline for filing rebuttal testimony would pass before the Commission could fully consider the motion, on

¹ The five named intervenors are Joseph Schrader, Stan Temares, Cindy Fortney, Cathy J. Orlor, and Benjamin D. Pugh.

December 12, the Commission postponed the date for filing rebuttal testimony until December 29.

On December 18, Big Island Water & Sewer Company filed a response to the Intervenor's objections to its motion. That response again emphasizes that the application for a certificate will become moot if the water and sewer system is sold to the new nonprofit companies. Big Island Water & Sewer Company also contends that the intervenors' objections to the transfer of the water and sewer system to the nonprofit companies are not properly at issue in this certificate application case. It also suggests that the request to reopen case number WC-2006-0082 should be filed and considered in that case, and not in this case.

The Commission is mindful of the parties' desire to avoid unnecessary work in filing testimony and otherwise preparing for trial in an application case that may be dismissed by the applicant. However, the Commission is also aware that a suspension of the procedural schedule means that the hearing scheduled for February 5-7, 2007 would need to be canceled. Given the Commission's crowded hearing schedule, a canceled hearing likely could not be rescheduled for some time. Therefore, if the sale of the water and sewer system to the nonprofit companies does not occur as anticipated, the resolution of this case would be delayed. The Commission is not willing to allow such a delay. Therefore, the motion to suspend procedural schedule will be denied.

Big Island Water & Sewer Company is correct, however, that the Commission cannot take any action in WC-2006-0082 in response to a motion filed in this case. If the

intervenors, some of whom are complainants in that case, want the Commission to act in WC-2006-0082, they need to file an appropriate motion in that case.

Because the parties obligated to file rebuttal testimony on December 29 would have little time over the Christmas holiday to prepare that testimony, the Commission will modify the procedural schedule to allow more time for the filing of testimony. The hearing dates will not be changed.

IT IS ORDERED THAT:

1. The Big Island Water & Sewer Company, Inc.'s Motion to Suspend Procedural Schedule is denied.

2. The remaining procedural schedule is amended as follows:

Rebuttal Testimony filed by Staff, Public Counsel, and Other Parties	- January 5, 2007
Surrebuttal Testimony filed by All Parties	- January 22, 2007
List of Issues, List of Witnesses, Order of Cross Examination filed by Staff	- January 24, 2007
Statements of Position filed by All Parties	- January 26, 2007
Evidentiary Hearing	- February 5, 6 & 7, 2007, beginning at 8:30 a.m.

3. This order shall become effective on December 21, 2006.

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