

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

Cathy J. Orlor,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>Case No. WC-2006-0082, et al.</u></b>
	)	
Folsom Ridge, LLC,	)	
	)	
and	)	
	)	
Big Island Homeowners Association Water	)	
and Sewer Association, Inc., f/k/a Big Island	)	
Homeowners Association	)	
	)	
Respondents.	)	
	)	
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	)	<b><u>Case No. WO-2007-0277</u></b>
Sewer Assets to Big Island Water Company and	)	
Big Island Sewer Company, and in Connection	)	
Therewith Certain Other Related Transactions.	)	

**ORDER ADOPTING LIST OF ISSUES, ORDER OF OPENING**  
**STATEMENTS, LIST AND ORDER OF WITNESSES AND**  
**ORDER OF CROSS-EXAMINATION**

Issue Date: February 27, 2007

Effective Date: February 27, 2007

On February 26, 2007, the Staff of the Missouri Public Service Commission filed a document setting out their proposed list of issues, order of opening statements, list and order of witnesses, and order of cross-examination to follow in the hearing scheduled to

begin on February 28, 2007. Additionally, Cathy Orlor submitted a proposed list of issues and list of witnesses. On February 27, 2007, Folsom Ridge, L.L.C. ("Folsom Ridge") and Big Island Homeowners Water and Sewer Association, Inc., f/k/a/ Big Island Homeowners Association, Inc. ("BIHOA") (collectively "Respondents") late-filed its proposed list of issues and proposed addition to the schedule of witnesses. No other party has made similar filings, and no other party has objected to the lists that were proposed. The three lists are not identical; however, the lists demonstrate that the parties are in basic agreement as to the central issues in this case. Respondents do not entirely agree with Staff's proposed list of issues and disagree with portions of Ms. Orlor's list that they believe exceed the Commission's jurisdiction.

The Commission will only adopt a list of issues over which it has jurisdiction. Many of the items listed by Ms. Orlor do not fall under the jurisdiction of the Commission, and others are not relevant to deciding the principal issues where the Commission may exercise its jurisdiction. Respondents, on the other hand, would inappropriately limit issues by excluding several that the Commission does find relevant. The Commission notes that to the extent that Ms. Orlor's proposed list of issues concerning her listed categories of Ownership, Control, Operations, Management, Membership, and Construction, overlap with the list of issues below, they will be fully considered by the Commission. Similarly, to the extent that Respondents' proposed list of issues overlaps with the list of issues below, they will also be fully considered by the Commission.

The Commission will adopt the following list of issues.

**Primary Issues In WC-2006-0082:**

- 1.) Are Folsom Ridge or BIHOA, or both of them, a public utility pursuant to § 386.020(42), RSMo Supp. 2006, and thus subject to the jurisdiction, control and regulation of the Missouri Public Service Commission pursuant to § 386.250, RSMo Supp. 2006?
- 2.) Have Folsom Ridge or BIHOA, or both of them, violated § 393.170, RSMo 2000, by constructing and operating a water system or a sewer system, or both, without having first obtained authority from the Commission in the form of a Certificate of Public Convenience and Necessity?

**Secondary Issues to be Resolved in Relation to the Primary Issue 1:**

- 1A.) Is Folsom Ridge a water corporation pursuant to § 386.020(58), RSMo Supp. 2006, in that it owns, controls, operates, or manages a water system, plant or property and distributes, sells or supplies water for gain?
- 1B.) Is BIHOA a water corporation pursuant to § 386.020(58), RSMo Supp. 2006, in that it owns, controls, operates, or manages a water system, plant or property and distributes, sells or supplies water for gain?
- 1C.) Is Folsom Ridge a sewer corporation pursuant to § 386.020(48), RSMo Supp. 2006, in that it owns, controls, operates, or manages sewer plant with twenty-five or more outlets and is in the business of collecting, carrying, treating, or disposing of sewage for gain?
- 1D.) Is BIHOA a sewer corporation pursuant to § 386.020(48), RSMo Supp. 2006, in that it owns, controls, operates, or manages sewer plant with twenty-five or more outlets and is in the business of collecting, carrying, treating, or disposing of sewage for gain?

**Primary Issue in WC-2007-0277:**

Would Applicants' proposed transfer of the water and sewer assets to Big Island Water Company and Big Island Sewer Company be detrimental to the public interest?

**Secondary Issue to be Resolved in Relation to the Primary Issue:**

What conditions, if any, should be imposed on the proposed transfer?

**Common Issues to WC-2006-0082 and WO-2007-0277, Should the Commission Determine it has Jurisdiction over a Public Utility Operated by Folsom Ridge, LLC, BIHOA, or Both of Them:**

1. Has Folsom Ridge, LLC, or BIHOA, or both of them, failed to provide safe and adequate water and sewer service in violation of § 393.130.1, RSMo 2000.

2.) Has Folsom Ridge, LLC, or BIHOA, or both of them, discriminated against some customers and provided preferences to others in its rates and charges for water and sewer service and tap-on and connection fees?

With regard to the order of opening statements, this will largely be dependent upon which parties enter their appearances at hearing. Based upon current filings with the Commission, it is possible that not all of the parties listed by Staff will appear, and the final order for opening statements will be established during prehearing discussions.

The list and order of witnesses as proposed by Staff will be adopted with two exceptions. The Complainants offering testimony will proceed in the following order, Cathy Orlor, Benjamin Pugh and Cindy Fortney. Additionally, the Commission will adopt Respondents' proposed additions for Thursday, March 1, 2007, which add the Custodian of Records for the Missouri Department of Natural Resources ("DNR") (under subpoena) and Excerpts of the Deposition of DNR to be read into the record. The order of cross-examination as proposed by Staff will be adopted in its present form.

It should be noted that Ms. Orlor's list of witnesses includes persons who have not been proffered by any party and who have not been subpoenaed to appear by any other party. Consequently, those individuals will not be heard as witnesses during this hearing.

**IT IS ORDERED THAT:**

1. The Missouri Public Service Commission grants leave to Folsom Ridge, L.L.C. and Big Island Homeowners Water and Sewer Association, Inc., f/k/a/ Big Island

Homeowners Association, Inc. to file its Separate List of Issues and Addition to Its Schedule of Witnesses out-of-time.

2. The List of Issues in Case Numbers WC-2006-0082 and WO-2007-0277, as delineated in the body of this order, is hereby adopted.

3. The List and Order of Witnesses, and Order of Cross-Examination, as submitted by the Staff of the Missouri Public Service Commission, is hereby adopted as amended and delineated in the body of this order.

4. This order shall become effective on February 27, 2007.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is 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 27th day of February, 2007.