

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 12th day of April, 2007.

Cathy J. Orler,)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-2006-0082, et al.</u>
)	
Folsom Ridge, LLC,)	
)	
and)	
)	
Big Island Homeowners 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)	<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.)	

**FINAL RULINGS ON PRE-FILED OBJECTIONS TO THE TESTIMONY
OF COMPLAINANTS/INTERVENERS THAT WERE TAKEN WITH THE
CASE**

Issue Date: April 12, 2007

Effective Date: April 12, 2007

The Commission held a combined evidentiary hearing in these matters on February 28 through March 2, 2007.¹ Prior to the hearing, Respondents filed objections to

¹ All dates throughout this order refer to the year 2007 unless otherwise noted.

the prefiled direct, rebuttal and surrebuttal testimony of Cathy J. Orlor, hearing exhibits 1, 2 and 3 respectively. Objections were also filed to the prefiled direct, rebuttal and surrebuttal testimony of Benjamin Pugh, hearing exhibits 4, 5 and 6 respectively. Objections were also included to the prefiled direct testimony of Cindy Fortney, hearing exhibit 7.

With regard to the objections to Ms. Orlor's testimony, the presiding officer ruled on objections to pages 1 through page 38, lines 1-7 during the evidentiary hearing.² Additional objections were ruled upon with regard to Ms. Orlor's surrebuttal testimony at that same time.³ At the suggestion of the parties, the remainder of the objections lodged with regard to Ms. Orlor's testimony and all of the objections lodged in relation to Mr. Pugh's testimony and Ms. Fortney's direct testimony were taken with the case.⁴

Additionally, during the hearing Cindy Fortney offered into evidence rebuttal testimony that she has previously prefiled in Case No WA-2006-0480, a case that had been previously dismissed by the Commission. This testimony was marked as exhibit 8. Objections were sustained with regard to the cumulative nature of parts to this exhibit, and objections were sustained with regard to attachments to the exhibit. Again, the remaining objections were taken with the case with regard to the testimony's relevance, that it included hearsay statements, and that it was argumentative and self-serving.⁵

² Transcript, pp. 224-278.

³ Transcript, pp. 279-287.

⁴ Transcript, pp. 278-279, 369-370, 388-389, 483-484.

⁵ Transcript pp. 484-496.

No proper party filed any written responses to the identified objections, and no additional responses to the objections were raised at hearing. No party contested the Commission taking the remaining objections with submission of the case.

The parties are now preparing their post-hearing briefs and while they were given a general understanding of how the Commission would rule on the remainder of the outstanding objections, the presiding officer will rule on those objections so the parties understand the evidence upon which the Commission will rely when making its decisions in this matter.⁶

The outstanding objections identified relating to hearing exhibits 1 through 8, they are ruled upon as follows:

- a. All objections based upon speculation, hearsay, legal conclusions, lack of foundation or authentication, conclusory statements, testimony being repetitive or cumulative, facts not in evidence, misstating the record and mischaracterization are sustained.
- b. All objections based upon the misuse of surrebuttal testimony for failing to address rebuttal testimony of any other party or for being used as supplemental direct testimony are sustained.
- c. With regard to objections to relevancy, any testimony that that exceeds the scope of the issues list adopted by the Commission on February 2 is deemed irrelevant and those objections are sustained.

⁶ Transcript p. 278, lines 6-22.

- d. All objections based upon the testimony being argumentative, self-serving, or based upon feelings, or on a presumption of a duty to provide information are overruled. Such testimony will be regarded as the personal opinion of witness and will be given the appropriate weight as determined by the Commission.

IT IS ORDERED THAT:

1. The outstanding evidentiary objections to hearing Exhibits 1 through 8, which were taken with the case as indicted throughout the official transcripts, are ruled upon as delineated in the body of this order.

2. This order shall become effective on April 12, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

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

Stearley, Regulatory Law Judge