

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 15th day of  
June, 2006.

Cathy J. Orlor,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>Case No. WC-2006-0082, et al.</u></b>
	)	
Folsom Ridge, LLC, Owning and Controlling the	)	
Big Island Homeowners Association,	)	
	)	
Respondent.	)	

**ORDER GRANTING FOLSOM RIDGE AND HOMEOWNERS  
ASSOCIATION'S MOTION TO COMPEL**

Issue Date: June 15, 2006

Effective Date: June 15, 2006

On May 15, 2006, Folsom Ridge, LLC and Big Island Homeowners Water and Sewer Association, Inc., f/k/a Big Island Homeowners Association, Inc., filed a motion asking the Commission to compel the complainants to respond to data requests. The motion to compel indicates that the data requests were served on the complainants on April 10. On April 24, Cathy Orlor, Stan Temares, Joseph J. Schrader, Judy Kenter, Benjamin Pugh, Dean Leon Fortney, Cindy Fortney, and Ben Weir, each an individual complainant, filed separate responses to those data requests. Each complainant's response indicated that he or she would not answer the data requests.

No complainant, except Cathy Orlor, responded directly to the motion to compel. Orlor's response was actually a separate motion asking the Commission to compel Folsom

Ridge and the Homeowners Association to respond to her data request. That motion will be addressed in a separate order.

Folsom Ridge and the Homeowners Association's motion to compel includes a copy of the data request questions that they have asked the complainants to answer. Some of those questions ask the complainants to disclose their name, address, education, employment history, and litigation history. Other questions ask them to disclose relevant photographs, documents, and names and addresses of proposed expert witnesses. Folsom Ridge and the Homeowners Association ask whether the complainants have paid a connection fee for water or sewer service, and whether they are currently paying for such service. Folsom Ridge and the Homeowners Association ask the complainants to explain their view of their complaints and to explain what relief they are seeking from the Commission. Folsom Ridge and the Homeowners Association contend that each of the questions are proper and are reasonably calculated to lead to the discovery of admissible evidence.

As previously indicated, the complainants have not directly responded to the motion to compel. They did, however, file responses to the data requests before the motion to compel was filed. The responses of each of the complainants explain that they will not respond to the data requests because a) some questions are personal and irrelevant to the case, and b) the questions that are relevant have already been answered in their formal complaint. Two complainants, Cathy Orlor and Ben Weir, also complain that some of the data request questions are open ended, subjective, and ask the complainants to answer on behalf of the Commission.

The Missouri rules of civil procedure regarding discovery provide that “parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action.” Discovery requests are proper if they appear to be “reasonably calculated to lead to the discovery of admissible evidence.”<sup>1</sup>

The Commission has reviewed the data requests submitted by Folsom Ridge and the Homeowners Association and finds that those data requests are proper. Each of the complainants will be required to respond to the data requests by June 26, 2006. Those responses shall be served on Folsom Ridge and the Homeowners Association, and should not be filed with the Commission.

Commission rule 4 CSR 240-2.090(8) provides that the Commission will not consider a motion to compel discovery unless counsel for the moving party has first conferred with the responding party and contacted the presiding officer to arrange for an informal conference to discuss the discovery dispute. That has not been done in this case, but Folsom Ridge and the Homeowners Association ask that the requirement for such a conference be waived. They point out that none of the eight complainants is represented by counsel and that as a result they are difficult to contact. Furthermore, it is difficult to coordinate a simultaneous meeting with all the complainants. As a result, Folsom Ridge and the Homeowners Association ask that the Commission waive the requirement for prior discussion and proceed to rule upon the motion to compel.

The Commission is generally not inclined to waive the rules requiring prior discussions between the parties before the presentation of a discovery dispute to the Commission. However, the Commission is mindful of the difficulties that result from

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<sup>1</sup> Mo. R. Civ. P. 56.01(b)(1)

attempting to negotiate with eight separate complainants. It seems that all parties will best be served by a prompt Commission ruling on the motion to compel. Therefore, the requirements of 4 CSR 240-2.090(8) will be waived.

**IT IS ORDERED THAT:**

1. The Motion to Compel and Motion to Waive Requirements of 4 CSR 240-2.090(8) filed by Folsom Ridge, LLC and Big Island Homeowners Water and Sewer Association, Inc. f/k/a Big Island Homeowners Association, Inc., is granted.

2. Cathy J. Orlor is ordered to answer the submitted data requests by June 26, 2006.

3. Ben F. Weir is ordered to answer the submitted data requests by June 26, 2006.

4. Stan Temares is ordered to answer the submitted data requests by June 26, 2006.

5. Joseph J. Schrader is ordered to answer the submitted data requests by June 26, 2006.

6. Judy Kenter is ordered to answer the submitted data requests by June 26, 2006.

7. Benjamin D. Pugh is ordered to answer the submitted data requests by June 26, 2006.

8. Dean Leon Fortney is ordered to answer the submitted data requests by June 26, 2006.

9. Cindy Fortney is ordered to answer the submitted data requests by June 26, 2006.

10. This order shall become effective on June 15, 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