

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 27th day of
February, 2007.

In the Matter of the Application of Folsom Ridge,)
L.L.C., and Big Island Homeowners Water and Sewer)
Association, Inc., for an Order Authorizing the)
Transfer and Assignment of Certain Water and) **Case No. WO-2007-0277**
Sewer Assets to Big Island Water Company and)
Big Island Sewer Company, and in Connection)
Therewith Certain Other Related Transactions)

**ORDER GRANTING MOTION TO WAIVE THE REQUIREMENTS OF
4 CSR 240-2.090(8) AND GRANTING MOTION TO COMPEL**

Issue Date: February 27, 2007

Effective Date: February 27, 2007

On February 7, 2007,¹ the Commission granted timely, unopposed requests to intervene in this matter to the following individuals: Fran Weast; Donald J. Weast; Geary Mahr, Mary Mahr; Tom Thorpe, Sally Thorpe; Bernadette Sears; Sherrie Fields; and Arthur W. Nelson. Since the date of their intervention, these parties have not participated in this matter, i.e. have not filed any testimony or pleading as directed in the procedural schedule issued on January 26.

On February 8, Folsom Ridge L.L.C. and Big Island Homeowners Water and Sewer Association, Inc. (Collectively "Applicants"), served its first set of data requests on each of these interveners. On February 26, Applicants filed a motion to waive the requirements of

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

Commission Rule 4 CSR 240-2.090(8) and issue an order to compel responses to the data requests. Applicants allege that no answers or objections have been filed to the data requests, which are now overdue. Applicants note that while Commission Rule 4 CSR 240-2.090(8) requires the parties to confer, that the named interveners are not represented by counsel and have not provided telephone numbers, rendering a telephone conference under the time constraints of the procedural schedule unduly difficult. Applicants also seek an order that would dismiss these parties should they fail to respond to the data requests by the day of hearing.

This matter is set for hearing on February 28. At the time of their intervention requests, the parties named in Applicants' motion all alleged that they had interests in this matter that could be adversely affected by a determination by the Commission. However, none of these individuals has, to date, affirmatively participated in this matter. None of these individuals have presented a case in chief by means of prefiled direct testimony to articulate their position on Applicants' proposed transfer. None of these Applicants prefiled rebuttal testimony in response to any of the other parties' direct testimony.

Applicants' data requests were timely served on February 8, and the copy of those requests, which were included with Applicants' motions, demonstrates that the data requests are reasonably calculated to lead to the discovery of admissible evidence and are in all other respects reasonable. The interveners should have responded by either answering or objecting to the data requests no later than February 18, the date established in the Commission's February 9 order outlining the schedule for data requests.

The Commission shall waive the requirements of 4 CSR 240-2.090(8) and issue an order compelling responses to the data requests. However, the Commission will reserve

judgment on Applicants' additional request to dismiss these individuals and take that portion of Applicants' motion up on the day of hearing, when it can be determined if these parties have complied with the Commission's order to compel. The parties are advised that, pursuant to Commission Rule 4 CSR 240-2.116(3), failure to comply with an order issued by the Commission may result in that party being dismissed from a case.

IT IS ORDERED THAT:

1. The Missouri Public Service Commission waives Commission Rule 4-CSR 240-2.090(8) in relation to Folsom Ridge L.L.C.'s and Big Island Homeowners Water and Sewer Association, Inc.'s first set of data requests served on Fran Weast; Donald J. Weast; Geary Mahr, Mary Mahr; Tom Thorpe, Sally Thorpe; Bernadette Sears; Sherrie Fields; and Arthur W. Nelson.

2. No later than 7:00 a.m., February 28, 2007, Fran Weast; Donald J. Weast; Geary Mahr, Mary Mahr; Tom Thorpe, Sally Thorpe; Bernadette Sears; Sherrie Fields; and Arthur W. Nelson shall respond to the first set of data requests served by Folsom Ridge L.L.C. and Big Island Homeowners Water and Sewer Association, Inc.

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

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, Clayton and Appling, CC., concur
Gaw, C., dissents

Stearley, Regulatory Law Judge