

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

The Staff of the Missouri Public)	
Service Commission,)	
Complainant,)	
)	
v.)	Case No. WC-2007-0452
)	
Suburban Water and Sewer Company)	
and)	
Gordon Burnam,)	
Respondents.)	

**RESPONDENTS' RESPONSE AND SUGGESTIONS IN SUPPORT
OF CONSOLIDATION OF CASE NO. WO-2007-0444 AND CASE NO. WC-2007-0452**

Respondents submit this Response and Suggestions in Support of Consolidation of Case Number WO-2007-0444 and Case Number WC-2007-0452 in this cause:

1. Respondent Gordon Burnam has entered his appearance specially for the purpose of contesting this tribunal's subject matter and personal jurisdiction. Nothing contained herein is a waiver of those rights to object or a submission to this tribunal's personal jurisdiction or subject matter jurisdiction over him.

2. Respondent Suburban Water and Sewer Company ("Suburban") has been in existence supplying water to its customers for over thirty (30) years, but the facts relevant to this action are recent.

3. The last rate increase which was authorized for Suburban was in 1993.

4. Because of continued operating losses and restrictions imposed on Suburban by the Department of Natural Resources ("DNR"), Suburban requested a rate increase in late 2004. Suburban requested at that time an authorization to provide water from the neighboring public water supply district to Suburban's customers at the same rate as was being charged to the district's

customers. The commission staff refused this request but offered a smaller rate increase and stated that the lesser rate was the most that they would be willing to give and that Suburban should either negotiate lower rates with the neighboring district or arrange to sell its system to a new operator. There was no other viable choice for Suburban, so Suburban accepted this lesser rate in 2005.

5. Suburban has been operating at substantial losses for several years and has had to rely on shareholder loans to remain in operation.

6. In June 2006, the DNR issued a report citing deficiencies in Suburban's system and water supply. By letter dated June 29, 2006, Suburban advised the Commission of these inadequacies and reiterated its request for a rate increase that would permit it to use water from the neighboring district at the same rates as were being charged to its customers. No response was received by Suburban to that letter.

7. By letter dated January 31, 2007, Suburban gave notice to the Commission that it could no longer continue to operate in violation of DNR requirements and at an operating loss. Suburban requested advice as to what should be done. That letter further set a deadline of July 1, 2007. Suburban received no response to the January 31, 2007 letter.

8. After waiting two (2) more months with no response whatsoever from the Commission or from its staff, Suburban, by letters dated March 30, 2007, and April 2, 2007, gave notices to the Commission, DNR and Suburban's customers, that Suburban would cease doing business effective July 1, 2007. At that point, Commission staff responded that they would arrange for a solution to the problem, probably via a transfer or receivership, and supposedly began working toward that end.

9. Six (6) weeks later, on or about May 22, 2007, two Commission attorneys held a meeting with one of Suburban's attorneys and, for the first time, stated that Suburban was in violation of the subject order and agreement and that Suburban had to comply or that a complaint would be initiated.

10. On or about May 21, 2007, the Office of the Public Counsel filed a request for a Local Public Hearing.

11. On or about May 29, 2007, the Commission staff filed the Complaint, together with the Motion to Expedite, alleging throughout the Complaint and as the basis for the Motion that Suburban indicated an intention to discontinue operations.

12. In discussions, the Commission staff threatened to file the Complaint for the express purpose to force Suburban to continue its operations.

13. Although the Commission staff has not requested any relief to, in fact, force Suburban to continue its operations, these matters are inextricably entwined, and it is necessary and advisable, for economy and to insure a full and fair hearing for all interested parties, to consolidate both cases.

14. In their objection to the consolidation of these cases, the Commission staff claims that the two cases do not involve common questions of law; however, a central issue here is whether or not some of the past and present requirements (including any alleged violations thereof) may affect the continued viability of Suburban's operations and ability to provide safe and adequate water service.

15. In addition, a corollary issue is in what form Suburban's water system should continue to operate, if at all, possibly including by a not-for-profit formed by the current customers, who should be entitled to participate in both cases.

16. Respondents believe that the consolidation of these cases will not affect the relief requested or the timeliness of such relief.

WHEREFORE, Respondents request that the order consolidating cases be upheld and continued and that the Commission staff's objection thereto be overruled and for such other and further relief as the Commission deems just and proper.

/s/ Matthew S. Volkert

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The undersigned certifies that a complete and conformed copy of the foregoing document was mailed to each attorney who represents any party to the foregoing action, by U.S. Mail, postage prepaid in the proper amount, at said attorney's business address.

/s/ Matthew S. Volkert

Dated: June 8, 2007