

**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.)	

**RESPONSE IN OPPOSITION OF RESPONDENTS
TO STAFF'S MOTION UNDER SECTION 393.140 TO ORDER
SUBURBAN WATER AND GORDON BURNAM TO MAKE
REASONABLE IMPROVEMENTS TO PROMOTE THE
PUBLIC INTEREST, PRESERVE THE PUBLIC HEALTH, AND
PROTECT CONSUMERS OF SUBURBAN WATER AND SEWER COMPANY**

COME NOW Respondents, by and through their counsel, and file this Response in Opposition to the Staff's Motion Under Section 393.140:

1. Respondent Gordon Burnam ("Burnam") has entered his appearance specially for the purpose of contesting this tribunal's jurisdiction over him. Nothing contained herein is a waiver of those rights to object or a submission to this tribunal's jurisdiction.
2. Respondents oppose and object to the Staff's motion to order Respondents to make improvements to the Suburban Water and Sewer Company system.
3. Respondents state that Burnam is neither a water corporation nor a public utility as such terms are defined in Section 386.020 RSMo. Respondents further state that the Commission has no authority to require any investigations of Burnam or to require Burnam to take any affirmative measures or cease taking any actions. The Commission has no jurisdiction, power or authority to order Burnam individually to do anything.

4. Burnam was and is not subject to the Commission's order of June 16, 2005, in Case No. WR-2005-0455. Burnam is not subject to any other orders of the Commission that have been entered at any time.

5. Burnam has not failed to do anything with respect to the Suburban Water and Sewer Company water system because Burnam is not charged with any such obligations or responsibilities.

6. Burnam is not the person who owns, manages or controls the Suburban water system and is not responsible for providing safe and adequate service to Suburban's customers or for making necessary improvements to the Suburban system.

7. For the reasons set forth in Burnam's Motion to Dismiss or Alternative Motion for More Definite Statement in this Action, Burnam is not subject to the jurisdiction of the Commission and should be dismissed as a respondent in this case. The entire contents of Burnam's motion to dismiss or alternative motion for more definite statement are incorporated herein by reference.

8. The relief sought by the Staff in its motion is entirely new to this case and is not included in the relief requested in either of the Staff's initial complaint or in its amended complaint. Accordingly, it is improper for the Staff to request the relief in its motion by means of a motion rather than by a separate complaint or by an amended complaint. Respondents object to the introduction of any evidence bearing on any of the issues set forth in the Staff's motion at the July 26 hearing and object to the consideration by the Commission of the motion or any evidence thereon at the July 26 hearing. Staff should file a separate complaint giving separate notice to Respondents and allowing Respondents to conduct discovery with respect to the matters set forth in the Staff's motion. The Staff's motion is nothing more than an attempt to amend its complaint without seeking leave of the Commission to do so.

9. The relief sought by the Staff in its motion is also contradictory and unclear. For example, they request both replacing the standpipe and capping the well and have not provided any concrete recommendations. Respondents cannot review any such recommendations, consult appropriate experts, conduct discovery, and respond to the Staff's requested relief in time for the July 26 hearing.

10. Respondent's further note and point out to the Commission that neither the complaint nor the amended complaint in this action allege that Burnam is a water corporation or a public utility. The motion filed by Staff is the first time that the staff has taken that unsubstantiated and unsupportable position.

WHEREFORE, Respondents request that the Staff's Motion be overruled and that the relief requested herein be denied or, in the alternative, that with respect to Respondent Suburban, the Staff's Motion be severed and continued in a separate hearing, that the Staff be ordered to provide a more definite statement, and that the Commission schedule separate deadlines for an answer, discovery and a hearing, and for such other and further relief as the Commission deems just and proper.

/s/ Thomas M. Harrison

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The undersigned certifies that a complete and conformed copy of the foregoing document was faxed and mailed to all counsel of record in this case, by U.S. Mail, postage prepaid in the proper amount, at said counsel's last known address.

/s/ Thomas M. Harrison

July 18, 2007