

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

The Staff of the Missouri)	
Public Service Commission,)	
)	
Complainant,)	
v.)	<u>Case No. WC-2007-0452</u>
)	<u>and WO-2007-0444</u>
Suburban Water and Sewer Co. and Gordon)	
Burnam,)	
Respondents.)	

**STAFF’S OBJECTIONS AND RESPONSES TO SUBURBAN’S FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS**

COMES NOW, the Staff of the Public Service Commission, by counsel, and hereby objects and responds, without waiving any objections, to *Respondent Suburban Water and Sewer Company’s First Request for Production of Documents to Complainant* (“First Request”), as follows:

General Objections

1. Staff objects to Respondent’s First Request to the extent the information requested or its details are protected by and subject to privileges, including attorney-client or other applicable privileges. Staff further objects on the basis that Respondent’s First Requests request attorney work product, including attorney opinion, mental processes, conclusions, and legal theories, or other non-discoverable information prepared for trial or in anticipation of litigation. To illustrate, Respondent’s definition of the words “you” or “your” specifically includes “all of its employees, agents, officers, attorneys (including the General Counsel)” (at page 2).

2. Staff objects to the extent that Respondents request irrelevant information or materials, and information or materials otherwise not likely or reasonably calculated to lead to the discovery of admissible evidence.

3. Staff objects to the extent that expedited discovery is currently ongoing into the subject matter of this litigation and that complete responses to this written discovery are therefore not possible at this time. Further discovery may also be required to determine answers to Respondents' requests and, indeed, the parties have scheduled expedited depositions of several witnesses in recognition of this fact. Staff therefore objects to the duplication of discovery, and the unnecessary expenditure of limited time and resources, that would be caused by the further supplementation of these responses following the depositions which are calculated to provide the discovery desired by the parties.

Specific Objections

1. All documents containing or referring to facts set forth in your answers to Interrogatory Nos. 1 through 18 of Suburban's First Set of Interrogatories to Complainant in this case.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such preparation included attorney-client privilege or attorney work product. Further, Staff objects to the extent that the request is unduly burdensome, vague, overbroad, and attempts to obtain irrelevant information or documents. Staff objects to the extent that such documents are a matter of public record and equally accessible to all parties.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

2. All documents that were requested to be produced in Interrogatory Nos. 1 through 18 of Suburban's First Set of Interrogatories to Complainant in this case.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such preparation included attorney-client privilege or attorney work product. Further, Staff objects to the extent that the request is unduly burdensome, vague, overbroad, and attempts to obtain irrelevant information or documents. Staff objects to the extent that such documents are a matter of public record and equally accessible to all parties.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

3. Any and all correspondence in any form (including but not limited to letters, memoranda, and electronic mail messages) between you and Suburban (including any actual, purported, or apparent agents of Suburban) at any time concerning the subject matter and allegations of the Complaint.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such a request is not reasonably calculated to lead to the discovery of evidence not in the control of Respondents Suburban and Gordon Burnam. Further, Staff objects to the extent that the request is unduly burdensome in that such correspondence should be in the files of both Respondents in this case, and is equally accessible, if not more accessible to Respondents. Staff also objects to the extent that this request is unduly burdensome, vague, and overbroad.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

4. Any and all correspondence in any form (including but not limited to letters, memoranda, and electronic mail messages) between you and Burnam (including any actual, purported, or apparent agents of Burnam at any time concerning the subject matter and allegations of the Complaint.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such a request is not reasonably calculated to lead to the discovery of evidence not in the control of Respondents Suburban and Gordon Burnam. Further, Staff objects to the extent that the request is unduly burdensome in that such correspondence should be in the files of both Respondents in this case, and is equally accessible, if not more accessible to Respondents. Staff also objects to the extent that this request is unduly burdensome, vague, and overbroad.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

5. Any and all correspondence in any form (including but not limited to letters, memoranda, and electronic mail messages) between you and the Commission concerning the Complaint or the allegations thereof.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such correspondence is privileged information pursuant to the attorney-client privilege, other privilege or attorney work product. Staff also objects to the extent that this request is unduly burdensome, vague, and overbroad.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

6. All documents given, submitted or provided by you to any expert witness who you expect to call at the hearing of this matter.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such information is privileged information pursuant to the attorney-client privilege, other privilege or attorney work product. Staff objects to the extent that discovery is currently ongoing and witnesses may not yet be identified.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

7. The resume or curriculum vitae of all experts who you expect to call at the hearing of this matter.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that discovery is currently ongoing and witnesses may not yet be identified. Without waiving these objections and expressly preserving same, Staff states that Matthew Barnes, Deborah Bernsen, Kofi Boateng, Dale Johansen, Jim Merciel, James Russo, and Martin Hummel may have documents relevant to this matter which may be produced at or before the expedited discovery depositions already scheduled for these potential witnesses.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

8. The entire contents of your file or files with respect to the subject matter and allegations of the Complaint.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such information is privileged information pursuant to the attorney-client privilege, other privilege or attorney work product. Further, staff objects on the grounds that information within those files is irrelevant to the subject matter of this action, and is not reasonably calculated to lead to the discovery of admissible evidence if it is a collateral attack on such prior order. Further, Staff objects to the extent that the request is unduly burdensome in that such documents should be in the files of both Respondents in this case, and is equally accessible, if not more accessible to Respondents. Staff objects to the extent that such documents are a matter of public record and equally accessible to all parties. Staff also objects to the extent that this request is unduly burdensome, vague, and overbroad.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

9. All annual reports filed by Suburban with the Commission since January 1, 1997.

Staff incorporates general objections 1-3 herein. Further, Staff objects to the extent that the request is unduly burdensome in that such documents should be in the files of both Respondents in this case, and is equally accessible, if not more accessible to

Respondents. Staff objects to the extent that such documents are a matter of public record and equally accessible to all parties. Staff also objects to the extent that this request is unduly burdensome, vague and overbroad.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

10. Your entire file with respect to Case No. WR-2005-0455 before the Commission.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such information is privileged information pursuant to the attorney-client privilege, other privilege or attorney work product. Staff objects on the grounds that information within those files is irrelevant to the subject matter of this action, and is not reasonably calculated to lead to the discovery of admissible evidence if it is a collateral attack on such prior order. Further, Staff objects to the extent that the request is unduly burdensome in that such documents should be in the files of both Respondents in this case, and is equally accessible, if not more accessible to Respondents. Staff objects to the extent that such documents are a matter of public record and equally accessible to all parties. Staff also objects to the extent that this request is unduly burdensome, vague and overbroad.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

11. A complete and certified copy of the unanimous agreement referred to in the Complaint, including all amendments, attachments, exhibits, and written modifications thereto.

Staff incorporates general objections 1-3 herein. Further, Staff objects to the extent that the request is unduly burdensome in that such documents should be in the files of both Respondents in this case, and is equally accessible, if not more accessible to Respondents. Staff objects to the extent that such documents are a matter of public record and equally accessible to all parties. Staff also objects to the extent that this request is unduly burdensome, vague and overbroad.

Without waiving said objections and expressly preserving same, Staff provides the attached documentation.

12. All correspondence between you and the Office of Public Counsel at any time concerning either of the Respondents and concerning the Complaint and the allegations thereof.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such correspondence is privileged communication pursuant to privilege or attorney work product.

13. Any and all orders entered or findings made by the Commission relating in any way to the civil action filed by the Commission against Suburban and Burnam in the Circuit Court of Boone County, Missouri, case number 07BA-CV02632 (the "Boone County Action").

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such information is privileged communication pursuant to the attorney-client privilege, other privilege or attorney work product. Staff objects to the extent that such information is a matter of public record, or equally accessible to both parties. Staff also objects to the extent that this request is unduly burdensome, vague and overbroad.

Without waiving these objections and expressly preserving same, Staff produces the attached Minutes of the June 7, 2007, Agenda of the Missouri Public Service Commission.

14. Any and all correspondence between you and the Commission regarding the Boone County Action.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such correspondence is privileged communication pursuant to the attorney-client privilege, other privilege or attorney work product.

15. All documents evidencing that the Commission authorized the Commission's general counsel to file the Boone County Action.

Staff incorporates general objections 1-3 herein. Staff further objects to the extent that such preparation included attorney-client privilege, other privilege or attorney work product. Without waiving these objections and expressly preserving same, Staff incorporates by reference herein its response to #13.

Respectfully Submitted,

/s/ Shelley Syler Brueggemann

Shelley Syler Brueggemann
Senior Counsel
Missouri Bar No. 52173

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Response has been provided, either by first-class mail, by electronic mail, by facsimile transmission or by hand-delivery, to each attorney and/or party of record for this case on this 13th day of July 2007.

/s/ Shelley Syler Brueggemann