

**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 INTERROGATORIES**

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 Set of Interrogatories to Complainant* (“First Interrogatories”), as follows:

General Objections

1. Staff objects to Respondent’s First Interrogatories 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 Interrogatories request attorney work product, including attorney opinion, mental processes, analysis, 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 “any employee, agent, officer, attorney (including the General Counsel)” (at paragraph 3).

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. Identify each person who was interviewed, consulted or participated in the preparation or the formulation of your answers to these interrogatories.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such preparation included attorney-client privilege or attorney work product. Staff also objects to the extent that this request is vague, overbroad, and unduly burdensome and to the extent that such interviews, consultations, or participation is found to be irrelevant to the subject matter of this case.

Without waiving said objections and expressly preserving same, Staff states that the following list of individuals were contacted in preparation of answers to these interrogatories. Matthew Barnes, Deborah Bernsen, Kofi Boateng, Dana Eaves, Dale Johansen, Jolie Mathis, Jim Merciel, Mark Oligschlaeger, James Russo, Martin Hummel, and certain attorneys of the Missouri Public Service Commission's General Counsel's Office.

2. Identify all documents which you used or to which you referred in answering or preparing answers to these interrogatories.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that such preparation included attorney-client privilege, other privilege or attorney work product. Staff also objects to the extent that this request is vague, overbroad, and unduly burdensome, and to the extent that documents reviewed were irrelevant to the subject matter of this case.

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

3. State whether or not you or anyone acting on your behalf has knowledge of any statements made by Suburban or by any persons purporting to be the servant, agent or employee of Suburban pertaining to the matters alleged in the Complaint in this

case or any facts pertaining thereto, and if your answer is in the affirmative, then please state:

- a. The name and address of all persons having knowledge of such statement or statements.**
- b. Whether such statements were written, recorded, recorded and transcribed, or oral.**
- c. For each oral statement, please state the name and address of the person or persons hearing such statements, the name and the address of the person making such statement, the substance thereof and the place or places where each such statement was made.**

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, and overbroad. Staff objects to the extent that Respondents may depose named individuals to discover such information. Staff also objects to the extent that Respondents have already scheduled expedited depositions of several individuals, and therefore this written discovery is duplicative and a waste of limited time and resources.

Without waiving these objections and expressly preserving same, Staff states the following list that may have information relevant to his matter.

Matthew Barnes, Deborah Bernsen, Kofi Boateng, Dana Eaves, Dale Johansen, Jolie Mathis, Jim Merciel, James Russo, Martin Hummel, and certain attorneys of the General Counsel's Office, all located at the Missouri Public Service Commission, Governor Office Building, 200 Madison St., Jefferson City, MO 65102.

- 4. State whether or not you or anyone acting on your behalf has knowledge of any statements made by Burnam or by any persons purporting to be the servant, agent or employee of Burnam pertaining to the matters alleged in the Complaint in this case or any facts pertaining thereto, and if your answer is in the affirmative, then please state:**

- a. The name and address of all persons having knowledge of such statement or statements.**
- b. Whether such statements were written, recorded, recorded and transcribed, or oral.**
- c. For each oral statement, please state the name and address of the person or persons hearing such statements, the name and the address of the person making such statement, the substance thereof and the place or places where each such statement was made.**

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, and overbroad. Staff also objects to the extent that Respondents may depose named individuals to discover such information. Staff also objects to the extent that Respondents have already scheduled expedited depositions of several individuals, and therefore this written discovery is duplicative and a waste of limited time and resources.

Without waiving these objections and expressly preserving same, Staff states that the following list of individuals may have information relevant to his matter.

Matthew Barnes, Deborah Bernsen, Kofi Boateng, Dana Eaves, Dale Johansen, Jolie Mathis, Jim Merciel, James Russo, Martin Hummel, and certain attorneys of General Counsel's Office, all located at the Missouri Public Service Commission, Governor Office Building, 200 Madison St., Jefferson City, MO 65102.

- 5. State whether or not you or anyone acting on your behalf has knowledge of any statements made by any of you or by any persons purporting to be the servant, agent or employee of the Commission pertaining to the matters alleged in the pleadings in this case or any facts pertaining thereto, and if your answer is in the affirmative, then please state:**
- a. The name and address of all persons having knowledge of such statement or statements.**
 - b. Whether such statements were written, recorded, recorded and transcribed, or oral.**
 - c. For each oral statement, please state the name and address of the person or persons hearing such statements, the name and the address of the person making such statement, the substance thereof and the place or places where each such statement was made.**

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, and overbroad. Staff objects to the extent that Respondents may depose named individuals to discover such information. Staff also objects to the extent that Respondents have already scheduled expedited depositions of several individuals, and therefore this written discovery is duplicative and a waste of limited time and resources.

- 6. With respect to each person you expect or intend to call as an expert witness at the hearing of this matter, state and/or identify the following:**
- a. The name and address of each such person.**
 - b. The subject matter on which each expert is expected to testify.**
 - c. The substance of the facts and opinions to which the expert is expected to testify.**
 - d. A summary of the grounds for each opinion.**
 - e. All documents presented to and reviewed by said expert to review in connection with developing any opinions in this case.**

Staff incorporates general objections 1-3 herein. Staff objects to the extent that discovery is currently ongoing and such information has not yet been determined.

Without waiving these objections and expressly preserving same, Staff states that the following list of individuals may be called as witnesses at the evidentiary hearing of this matter. Staff has provided and attached the resume or equivalent, or curriculum vitae of each person listed. Staff further states that this list of witnesses may be supplemented, as ongoing discovery indicates, up

to and including the date of trial, and Staff hereby expressly reserves its right to so supplement its evidence to be offered at trial.

Matthew Barnes, Deborah Bernsen, Kofi Boateng, Dale Johansen, Jim Merciel, James Russo, and Martin Hummel, all located at the Missouri Public Service Commission, Governor Office Building, 200 Madison St., Jefferson City, MO 65102.

- 7. With respect to each non-retained expert witness, including parties, who you expect to call at the hearing of this matter, state and identify the following:**
- a. The name and address of each such person.**
 - b. The subject matter on which each non-retained expert is expected to testify.**
 - c. The substance of the facts and opinions to which the non-retained expert is expected to testify.**
 - d. A summary of the grounds for each opinion.**
 - e. All documents presented to and reviewed by such expert in connection with developing any opinions in this case.**

Staff incorporates general objections 1-3 herein. Staff objects to the extent that discovery is currently ongoing and such information has not yet been determined.

Without waiving these objections and expressly preserving same, Staff states that the following list of people may be called as witnesses at the evidentiary hearing of this matter. Staff does not currently have information beyond names and general affiliations at this time, as discovery is currently ongoing. Staff further states that this list of witnesses may be supplemented, as ongoing discovery indicates, up to and including the date of trial, and Staff hereby expressly reserves its right to so supplement its evidence to be offered at trial.

Bob Gilbert, Engineer with Bartlett and West.
Everett C. Baker, DNR.
Irene Crawford, DNR.
Lantz Tipton, DNR.

- 8. With respect to each fact witness, including any party or any representative of any party who you expect to call at the hearing of this matter, state and identify the following:**
- a. The name and address of each such person.**
 - b. The subject matter on which each person is expected to testify.**
 - c. All documents presented to such person by you and reviewed by each such person in connection with each such person in connection with any testimony to be given in this case.**

Staff incorporates general objections 1-3 herein. Staff objects to the extent that discovery is currently ongoing and such information has not yet been determined. Further, Staff objects to the extent that the request is unduly burdensome, vague, and overbroad. Staff also objects to the extent that such witnesses are lay witnesses intended to be called at the evidentiary hearing.

Without waiving these objections and expressly preserving same, Staff states that the following list of individuals may be called as witnesses at the evidentiary hearing of this matter. Staff further states that this list of witnesses may be supplemented, as ongoing discovery indicates, up to and including the date of trial, and Staff hereby expressly reserves its right to so supplement its evidence to be offered at trial. Staff also objects to the extent that Respondents have already scheduled expedited depositions of several individuals, and therefore this written discovery is duplicative and a waste of limited time and resources.

Matthew Barnes, Deborah Bernsen, Kofi Boateng, Dale Johansen, Jim Merciel, James Russo, Martin Hummel, all located at the Missouri Public Service Commission, Governor Office Building, 200 Madison St., Jefferson City, MO 65102. Bob Gilbert, Everett C. Baker, Irene Crawford, and Lantz Tipton, all other information not found at this time.

9. Identify all persons with knowledge of any of the facts alleged in the Complaint or in any of the other pleadings in this action, including the facts known or believed to be known to each such person.

Staff incorporates general objections 1-3 herein. Staff objects to the extent that discovery is currently ongoing and such information has not yet been determined. Staff further 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, and overbroad.

Without waiving these objections and expressly preserving same, Staff states that the following list of individuals may be called as witnesses at the trial of this matter. Staff further states that this list of witnesses may be supplemented, as ongoing discovery indicates, up to and including the date of trial, and Staff hereby expressly reserves its right to so supplement its evidence to be offered at trial.

Gordon Burnam, Paula Belcher, Bonnie Burnam, Bob Gilbert, Engineer with Bartlett and West. Everett C. Baker, Irene Crawford, and Lantz Tipton.

10. Identify and produce with your answers to these interrogatories all exhibits that you intend to offer in evidence at the hearing of this matter.

Staff incorporates general objections 1-3 herein. Staff further 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, and overbroad. Without waiving these objections and expressly preserving same, Staff states that it intends to provide Respondents with copies of its exhibits as soon as practicable for this expedited matter, on or before the commencement of the evidentiary hearing, and exchange such exhibits or lists with opposing counsel..

11. Do you acknowledge the 2006 annual report for Suburban has been filed? If your answer is in the affirmative, state the date on which it was filed.

Yes. Late filed on May 30, 2007.

12. Do you contend that any customers are entitled to refunds for deposits? If your answer is in the affirmative, then further state and identify the following:

- a. Each customer by name who is entitled to a refund.**
- b. The amount of each refund that you contend is due and payable to each customer, including interest, if any, owed thereon.**

Staff incorporates general objections 1-3 herein. Further, Staff objects that this request is frivolous as the information is within the knowledge of Respondents who retain all relevant documents.

13. State all facts and produce all documents which support or prove or intend to support or prove the allegations of paragraph 40 of the Complaint.

This count is dismissed.

14. State all facts and produce all documents which support or prove or intend to support or prove the allegations of paragraph 34 of the Complaint.

Staff incorporates general objections 1-3 herein. Staff objects in that discovery is currently ongoing, as stated in general objection 3, and therefore cannot be answered at this time. Further, Staff objects that this request is frivolous as the information is within the knowledge of Respondents who retain all relevant documents.

15. State all facts and produce all documents which support or prove or intend to support or prove the allegations of paragraph 65 of the Complaint.

Staff incorporates general objections 1-3 herein. Staff objects in that discovery is currently ongoing, as stated in general objection 3, and therefore cannot be answered at this time. Further, Staff objects that this request is frivolous as the information is within the knowledge of Respondents who retain all relevant documents.

Without waiving these objections and expressly preserving same, Staff does state that Suburban and Burnam have admitted this allegation.

16. Identify all oral or written communications between you and Suburban regarding the allegations contained in the Complaint and/or any responsive pleadings, and for each such communications describe in detail the following:

- a. The date of the communication.**
- b. The form of the communication.**
- c. If the communication was written, state who authored the communication, who possesses the original and all copies thereof and its contents verbatim.**
- d. If the communication was oral, identify all persons who were present during all or part of the meeting or communication, state the date of the meeting, and state whether the meeting was conducted in person, over the telephone, or by mechanical or other means.**

Staff incorporates general objections 1-3 herein, specifically general objection #3. 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 communications should be known by or kept in the files of both Respondents in this case. Staff objects to the extent that the request is unduly burdensome, vague, and overbroad. Staff also objects to the extent that Respondents have already scheduled expedited depositions of several individuals, and therefore this written discovery is duplicative and a waste of limited time and resources.

Without waiving these objections and expressly preserving same, Staff has provided the documentation responding to this interrogatory.

17. Identify all oral or written communications between you and Burnam regarding the allegations contained in the Complaint and/or any responsive pleadings, and for each such communications describe in detail the following:

- a. The date of the communication.**
- b. The form of the communication.**
- c. If the communication was written, state who authored the communication, who possesses the original and all copies thereof and its contents verbatim.**
- d. If the communication was oral, identify all persons who were present during all or part of the meeting or communication, state the date of the meeting, and state whether the meeting was conducted in person, over the telephone, or by mechanical or other means.**

Staff incorporates general objections 1-3 herein, specifically general objection #3. 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 communications should be known by or kept in the files of both Respondents in this case. Staff objects to the extent that the request is unduly burdensome, vague, and overbroad. Staff also objects to the extent that Respondents have already scheduled expedited depositions of several individuals, and therefore this written discovery is duplicative and a waste of limited time and resources.

Without waiving these objections and expressly preserving same, Staff has provided the documentation in response to this interrogatory.

18. Identify all oral or written communications between you and the Commission regarding the allegations contained in the Complaint and/or any responsive pleadings, and for each such communications describe in detail the following:

- a. The date of the communication.**
- b. The form of the communication.**
- c. If the communication was written, state who authored the communication, who possesses the original and all copies thereof and its contents verbatim.**
- d. If the communication was oral, identify all persons who were present during all or part of the meeting or communication, state the date of the meeting,**

and state whether the meeting was conducted in person, over the telephone, or by mechanical or other means.

Staff incorporates general objections 1-3 herein. Staff further objects to the extent that such preparation included attorney-client privilege or attorney work product. Staff objects to the extent that the request is unduly burdensome, vague, and overbroad. Staff also objects to the extent that Respondents may depose named individuals to discover such information. Staff otherwise objects to the extent that the pleadings requested are a matter of public record, or equally accessible to both parties.

Without waiving these objections and expressly preserving same, see Staff's documentation provided.

WHEREFORE, Staff respectfully submits *Staff's Objections and Responses to Suburban's First Interrogatories*.

Respectfully Submitted,

/s/ **Shelley Syler Brueggemann**

Shelley Syler Brueggemann
Senior Counsel
Missouri Bar No. 52173

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 526-7393 (telephone)
(573) 751-9285 (facsimile)
shelley.brueggemann@psc.mo.gov

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**