

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

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

**STAFF’S RESPONSE TO RESPONDENT GORDON BURNAM’S OBJECTIONS  
TO STAFF’S FIRST SET OF INTERROGATORIES**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and for its Response to Respondent Gordon Burnam’s Objections to Staff’s First Set of Interrogatories respectfully states as follows:

**General Objections**

1. Staff asserts that the Missouri Public Service Commission (Commission) does have subject matter jurisdiction over this matter, personal jurisdiction over Respondent Gordon Burnam (Burnam), and that Staff’s First Set of Interrogatories is not beyond the jurisdiction, power, and authority of the Commission.

2. If a party withholds information on the basis of a claim of privilege or the work product doctrine, the party withholding the information must, without revealing the information it is withholding on the claim of privilege or the work product doctrine, “state information that will permit others to assess the applicability of the privilege or work product doctrine.” Missouri Rule of Civil Procedure 57.01(3). Suburban has not

stated such information that will allow others to assess the applicability of the claimed privilege or the work product doctrine.

3. Commission Rule 4 CSR 2.090(1) provides that “discovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court.” Rule 57 of the Missouri Rules of Civil Procedure governs the scope and issuance of interrogatories. Staff’s First Set of Interrogatories does not impose greater or different obligations in discovery than are required by applicable Commission Rules, the Missouri Rules of Civil Procedure, or case law.

4. Staff’s First Set of Interrogatories requests information that is relevant to the subject matter of this action, is relevant to Staff’s claim, and is reasonably calculated to lead to the discovery of admissible evidence.

5. Staff’s First Set of Interrogatories is not vague or ambiguous.

6. Staff submits that Burnam’s ongoing discovery process should not operate to delay Staff’s discovery in accordance with Missouri Rule of Civil Procedure 56.01(d). Burnam. has a duty to seasonably amend his responses to Staff’s First Set of Interrogatories “if the party learns that the response is in some material respect incomplete or incorrect and if the additional corrective information has not otherwise been made known to the other parties during the discovery process or in writing” in accordance with Missouri Rule of Civil Procedure 56.01(e).

7. Staff’s First Set of Interrogatories does not call for legal argument, analysis, opinion, or conclusion.

8. Staff’s First Set of Interrogatories does not seek information that is a matter of public record or otherwise equally accessible to all parties. Burnam’s

contention that the information requested is publicly available is inconsistent with his claim of privilege and/or the work product doctrine.

### **Specific Objections**

1. Paragraph 1 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 1 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

2. Paragraph 2 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 2 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

3. Paragraph 3 of Staff's First Set of Interrogatories is not vague. Paragraph 3 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 3 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

4. Paragraph 4 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 4 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

5. Paragraph 5 of Staff's First Set of Interrogatories is not vague. Paragraph 5 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 5 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

6. Paragraph 6 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 6 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

7. Paragraph 7 of Staff's First Set of Interrogatories is not vague. Paragraph 7 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 7 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

8. Paragraph 8 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 8 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

9. Paragraph 9 of Staff's First Set of Interrogatories is not vague. Paragraph 9 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 9 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

10. Paragraph 10 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 10 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

11. Paragraph 11 of Staff's First Set of Interrogatories is not vague. Paragraph 11 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 11 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

12. Paragraph 12 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 12 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

13. Paragraph 13 of Staff's First Set of Interrogatories is not vague. Paragraph 13 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 13 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

14. Paragraph 14 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 14 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

15. Paragraph 15 of Staff's First Set of Interrogatories is not vague. Paragraph 15 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 15 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

16. Paragraph 16 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 16 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

17. Paragraph 17 of Staff's First Set of Interrogatories is not vague. Paragraph 17 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 17 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

18. Paragraph 18 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 18 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

19. Paragraph 19 of Staff's First Set of Interrogatories is not vague. Paragraph 19 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 19 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

20. Paragraph 20 of Staff's First Set of Interrogatories is not vague or overbroad. Paragraph 20 of Staff's First Set of Interrogatories does not call for information that is outside the scope of what the Missouri Rules of Civil Procedure allow.

21. Paragraph 21 of Staff's First Set of Interrogatories is not vague. Paragraph 21 of Staff's First Set of Interrogatories does not ask for a legal conclusion. Paragraph 21 of Staff's First Set of Interrogatories requests information that is relevant to Staff's claim.

22. Staff submits that a discovery conference the week of June 25 is the most expeditious way to resolve any remaining discovery disputes. Staff believes that a timely discovery conference is necessary because Staff has requested expedited treatment in this case. This conference cannot be scheduled on June 29, as undersigned counsel are scheduled to appear before Judge Crane in Boone County Circuit Court on that date.

**WHEREFORE,** Staff requests that the Commission overrule Gordon Burnam's Objections to Staff's First Set of Interrogatories. Staff further requests a discovery conference be held prior to June 29, 2007 in order to resolve any additional discovery disputes.

Respectfully submitted,

/s/ Jennifer Heintz

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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been served via electronic mail to Christina Baker, Office of the Public Counsel, at [Christina.Baker@ded.mo.gov](mailto:Christina.Baker@ded.mo.gov); and to Thomas M. Harrison and Matthew S. Volkert, Attorneys for Respondent Suburban Water and Sewer Company, and for Respondent Gordon Burnam, at [tom@vanmatre.com](mailto:tom@vanmatre.com) and [matt@vanmatre.com](mailto:matt@vanmatre.com) on this 20<sup>th</sup> day of June, 2007.

/s/ Jennifer Heintz\_\_\_\_\_