

**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 SUBURBAN WATER AND SEWER  
CO.’S OBJECTION TO STAFF’S FIRST SET OF REQUESTS FOR ADMISSION  
OF FACTS**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and for its Response to Respondent Suburban Water and Sewer Co.’s (Suburban) Objection to Staff’s First Set of Requests for Admission of Facts respectfully states as follows:

**General Objections**

1. A party objecting to a request for admission of facts must on the basis of a claimed privilege or the work product doctrine, without revealing privileged information, “state information that will permit others to assess the applicability of the privilege or work product doctrine.” Missouri Rule of Civil Procedure 59.01(3). Suburban has not provided any such information to assess the applicability of the privilege or work product doctrine.

2. 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 59 of the Missouri Rules of Civil Procedure governs the scope and

issuance of requests for admissions of facts. Staff's First Set of Requests for Admission of Facts 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.

3. Staff's First Set of Requests for Admission of Facts 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 in accordance with Rule 56 of the Missouri Rules of Civil Procedure.

4. Staff's First Set of Requests for Admission of Facts is not vague or ambiguous.

5. Staff submits that Suburban's ongoing discovery process should not operate to delay Staff's discovery in accordance with Missouri Rule of Civil Procedure 56.01(d). Suburban has a duty to seasonably amend its responses to Staff's First Set of Requests for Admission of Facts "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).

6. Staff's First Set of Requests for Admission of Facts does not call for legal argument, analysis, opinion, or conclusion.

7. Staff's First Set of Requests for Admission of Facts does not seek information that is a matter of public record or otherwise equally accessible to all parties. Suburban's claim that the information requested is publicly available is inconsistent with its claim of privilege and/or the work product doctrine.

### **Specific Objections**

1. Paragraph 1 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 1 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 1 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

2. Paragraph 2 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 2 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 2 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

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

4. Paragraph 4 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 4 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 4 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

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

6. Paragraph 6 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 6 of Staff's First Set of Requests for Admission of Facts does not ask

for a legal conclusion. Paragraph 6 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

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

8. Paragraph 8 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 8 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 8 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

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

10. Paragraph 10 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 10 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 10 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

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

12. Paragraph 12 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 12 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 12 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

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

14. Paragraph 14 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 14 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 14 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

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

16. Paragraph 16 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 16 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 16 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

17. Paragraph 17 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 17 of Staff's First Set of Requests for Admission of Facts does not ask

for a legal conclusion. Paragraph 17 of Staff's First Set of Requests for Admission of Facts requests information that is relevant to Staff's claim.

18. Paragraph 18 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 18 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 18 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

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

20. Paragraph 20 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 20 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 20 of Staff's First Set of Requests for Admission of Facts is not improper in form or misleading.

21. Paragraph 21 of Staff's First Set of Requests for Admission of Facts is not vague. Paragraph 21 of Staff's First Set of Requests for Admission of Facts does not ask for a legal conclusion. Paragraph 21 of Staff's First Set of Requests for Admission of Facts 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 Suburban's Objections to Staff's First Set of Requests for Admission of Facts. 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