

The Staff of the Missouri Public Service Commission,

Complainant,

v.

Suburban Water and Sewer Company,
Inc., and Gordon Burnam,

Respondents.

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Case No. WC-2008-0030

In this complaint, which was filed on July 27, 2007, the Staff of the Missouri Public Service Commission sought Commission orders: (1) directing Staff to investigate the quality of water supplied by Suburban Water and Sewer Company, Inc. (“Suburban”) and Gordon Burnam and the methods employed by them in supplying and distributing water for any purpose; (2) directing Staff to file a recommendation concerning that investigation; (3) setting this matter for a full evidentiary hearing; and (4) requiring Suburban and Mr. Burnam to make reasonable improvements to the water system to promote the public interest, preserve the public health, and protect Suburban’s customers. On August 6, 2007, the Commission issued an order directing its Staff to promptly commence the specified investigation, and to file a report concerning the results of that investigation by no later than

September 20, 2007. Staff has done so,¹ leaving the last two requests contained in the complaint for the Commission's consideration.²

On November 13, 2007, Staff filed a motion requesting that the Commission schedule a prehearing conference and an evidentiary hearing and establish a procedural schedule. A week later, Staff filed a deposition notice regarding the fact witness Clyde H. Zelch, which indicated that discovery would not be complete until at least December 6, 2007. On January 4, 2008, Staff filed an updated report reflecting the information obtained from Mr. Zelch, and renewed its November 13, 2007 motion.

This matter is now at issue and a prehearing conference is appropriate to ensure its prompt resolution. In part, a prehearing conference is designed to permit the parties to pursue settlement discussions and to identify all remaining procedural or substantive matters of concern prior to the formal disposition of the issues in the case.³ In addition, a prehearing conference offers the parties a valuable opportunity to attempt to resolve their differences by agreeing to voluntary mediation of their dispute. The parties shall jointly file a proposed procedural schedule within seven days after the prehearing conference.

The Commission reminds the parties that this prehearing conference is *not an evidentiary hearing*. Sworn testimony will not be taken and no final decision will result from this prehearing conference.⁴ However, all parties are required to be present for the prehearing conference, and a court reporter will be present to make a record of the parties

¹ Staff filed reports on the condition of Suburban's water system serving the Bon-Gor Lake Estates Subdivision on September 20, 2007 and November 13, 2007.

² Mr. Burnam's Motion to Dismiss, which has been fully briefed, also remains pending. The Commission will issue a ruling on the motion at a later date, but no later than the beginning of the evidentiary hearing on Staff's complaint.

³ See Commission Rule 4 CSR 240-2.090(6).

⁴ Also, under Commission Rule 4 CSR 240-2.090(7), any facts the parties may discuss during the conference, including any settlement offers or discussions, are privileged and cannot be used against any participating party unless the parties agree to disclose them or they are fully supported by other, independent evidence.

that appear. **Parties must arrive in person or appear by telephone at or before the scheduled starting time of 9:00 a.m. in order to participate.** Pursuant to Commission Rule 4 CSR 240-2.090(5), “Failure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party or the party’s complaint, application or other action unless good cause for the failure to appear is shown.”

The Commission further advises the parties that arriving late to a prehearing conference is the equivalent of failing to appear. Parties are expected to appear at scheduled hearings on time, or to advise the Commission of their need to appear late or to timely request a continuance. If a party fails to meet those obligations, that party may be dismissed and the Commission may rule in favor of an opposing party. This is why the Commission issues advance notice of all hearings and conferences and extends various opportunities prior to any scheduled event for the parties to appear by phone or request a continuance.

IT IS ORDERED THAT:

1. The parties shall appear at a prehearing conference to be held on January 22, 2008, beginning at 9:00 a.m. The prehearing conference will be held in Room 305 at the Commission’s offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans with Disabilities Act. Any person needing additional accommodations to participate in this prehearing conference should call the Public Service Commission’s Hotline at 1-800-392-4211 or dial Relay Missouri at 711 prior to the conference.

2. Any party wishing to appear by telephone shall notify the Regulatory Law Judge

by calling 573-751-7485 no later than January 15, 2008.

3. Any party wishing to request a continuance shall file a pleading with the Commission stating why they are unable to attend the scheduled prehearing conference on January 22, 2008, either in person or by phone, and shall provide the Commission with a list of dates when that party is available to appear. Any such pleading shall be filed no later than January 17, 2008, and shall also be served on every other party to this complaint by the party requesting the continuance.

4. The parties shall jointly prepare and file a proposed procedural schedule (including a proposed date for an evidentiary hearing) no later than January 29, 2008.

5. This order shall become effective on January 8, 2008.

(S E A L)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 8th day of January, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary