

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

IN THE MARION COUNTY SUPERIOR COURT  
CAUSE NO. 49D07-0804-CC-018081

JASON BOND, DAVID LEAR, and )  
LESLIE BRIDGES, Individually )  
and as Representatives of all )  
those similarly situated, )

Plaintiffs, )

vs. )

VEOLIA WATER NORTH AMERICA )  
OPERATING SERVICE, LLC, VEOLIA )  
WATER INDIANAPOLIS, LLC, and )  
THE CITY OF INDIANAPOLIS, )  
DEPARTMENT OF WATERWORKS, )

Defendants. )

THE DEPOSITION OF JOEL L. GALLAGHER

The deposition upon oral examination of  
JOEL L. GALLAGHER, a witness produced and sworn  
before me, D. Jean Arnold, a Notary Public in and for  
the County of Marion, State of Indiana, taken on  
behalf of the Plaintiffs in the offices of Barnes &  
Thornburg, 11 South Meridian Street, Suite 500,  
Indianapolis, Indiana, on October 27, 2009,  
commencing at 10:35 A.M., pursuant to the Indiana  
Rules of Trial Procedure and by Notice of the parties  
as to time and place thereof.

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## A P P E A R A N C E S

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## FOR THE DEFENDANTS:

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BARNES & THORNBURG  
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City of Indianapolis, Dept. of Waterworks:  
BINGHAM MCHALE  
J. Neal Bowling, Esq.  
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## ALSO PRESENT:

Lanita McCauley Bates, Esq., Barnes & Thornburg  
Robert Erney - DOW

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1                   (Deposition Exhibit No. 1 was marked for  
2           identification.)

3 Q.   Do you know what Exhibit 1 is?

4 A.   Yes.  It's the customer service new hire  
5           training outline that's utilized by our training  
6           supervisor in the call center.

7 Q.   And generally what's it comprised of?

8 A.   It's basically an outline for her to walk new  
9           hire agents through the customer service process  
10           related to billing questions, adjustments, how  
11           to create work orders and various scenarios that  
12           they would deal with on a day-to-day basis.

13 Q.   You mentioned it was utilized by the supervisor  
14           in that department?

15 A.   Uh-huh.

16 Q.   Who is that supervisor?

17 A.   Terri Williams.

18 Q.   Does the customer service representative  
19           themselves actually use this?

20 A.   I believe that they use it during the training  
21           class.  And in addition, they have it as a  
22           reference tool on their desktop.

23 Q.   And that goes for all CSRs?

24 A.   All of the new hires that we've probably hired  
25           in the last two years -- two, three years.

1 Q. So when you say they have it available on their  
2 desktop, they could be handling a call and they  
3 could pull it up for reference?

4 A. Yes. They have them in binders. They're all  
5 welcome to it. But some of our more seasoned  
6 reps don't need the quick-reference tool.

7 Q. Do you know who generated that, Exhibit 1?

8 A. It was originally created by Danielle Toth, and  
9 then it was enhanced with Michelle Dinkins and  
10 Terri Williams.

11 Q. Did you contribute to this some?

12 A. I have.

13 Q. So is that a Veolia document?

14 A. Yes.

15 Q. That's generated by Veolia for its employees --

16 A. That is correct.

17 Q. -- who work in the CSR department?

18 A. Correct.

19 Q. What do -- let's imagine a new hire -- or any  
20 CSR is presented with a situation when a  
21 customer calls that's covered in that Exhibit 1.  
22 Is the CSR required to handle it in the manner  
23 that the customer service outline describes?

24 A. There are guidelines that the agents are  
25 required to follow, which are, you know,

1 Q. You state that the estimating logic utilized, at  
2 least at this time, the time of that e-mail, was  
3 either the last twelve months, the average of  
4 the last twelve months, or the last two months,  
5 whichever is higher?

6 A. Correct.

7 Q. And that is what you're referring to when you  
8 say estimating logic?

9 A. Correct.

10 Q. Can you describe for me -- when you say the last  
11 twelve months, what does that mean?

12 A. It means the last -- it's a rolling calendar, so  
13 the last twelve billing periods.

14 Q. So let's say a bill was being generated in  
15 January of 2010. Are you saying that part of  
16 what the computer will do is go back January of  
17 '09, through December of '09, take each of those  
18 periods and average them?

19 A. Correct.

20 Q. Whether they're estimates or actual reads?

21 A. That is correct.

22 Q. It does not matter which one?

23 A. Correct.

24 Q. And will come up with a value which is an  
25 average?

1 MR. MURRAY: Thank you, Peter. We don't  
2 have any objection to that line of questions.

3 Q. So to restate, what did you tell that committee,  
4 your opinion?

5 A. We looked at various scenarios on, you know, do  
6 we use a seasonal average, do we base it on  
7 customer usage, you know, that's being utilized  
8 by the plain operators. And my recommendation,  
9 or suggestion, was that we base it on the winter  
10 usage periods, like from October to April or  
11 November to April.

12 Q. What was your rationale for that?

13 A. That's when usage is most consistent on a  
14 customer level.

15 Q. And what months were those?

16 A. It would be -- October would still be a water  
17 period for those irrigating customers. So  
18 November through April is typically a consistent  
19 pattern.

20 Q. And would that be called a seasonal average in  
21 your business?

22 A. No, not necessarily. It's just -- because I'm  
23 familiar with it, you know, it's more of when  
24 customers, those that are still irrigating,  
25 they're still in October. I don't know that I

1 would call it a seasonal average, just  
2 consistent usage.

3 Q. What is a seasonal average?

4 A. A seasonal average --

5 MR. MURRAY: Objection.

6 A. A seasonal average is the two-month period, the  
7 two months.

8 Q. You mean going back to the estimating logic?

9 A. Yes.

10 Q. When you say the last two months, that is a  
11 seasonal average?

12 A. Correct.

13 Q. Going back to this complaint, Exhibit 2, in your  
14 e-mail, when you wrote Mrs. Wall, in the second  
15 paragraph again, you refer to an average of your  
16 past twelve months or, and you use the last two  
17 actual reads. Do you see that?

18 A. I do.

19 Q. What do you mean by actual reads?

20 A. I don't know if that's a misstatement on my  
21 part. It's my understanding that the estimation  
22 logic looks at the last twelve months rolling  
23 calendar or the last two months and uses  
24 whichever is higher, regardless of whether it's  
25 an actual or an estimate.

1 Q. Have you ever heard of a term used internally to  
2 Veolia called the blitz?

3 A. Yes.

4 Q. What's the blitz?

5 A. The blitz is the project that I had previously  
6 discussed for those longtime estimates. That's  
7 what we called the project. They were going to  
8 spend allocated time in a short period of time  
9 to get accounts read that were on that  
10 meter-reading list, longtime estimates, or  
11 missed.

12 Q. That was the effort you were referring to that  
13 kind of distracted from the normal process of  
14 meter reading?

15 A. Yes.

16 Q. Were you part of the blitz effort?

17 A. I was not.

18 Q. You were aware it was going on?

19 A. I was aware of it on the tail end of it. At  
20 that point I was not involved with customer  
21 service. I was solely focused on client  
22 relations at that point.

23 Q. Have you ever heard of the results of the blitz  
24 in terms of revenue generated for the utility?

25 A. I have not.