BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,	)	
Complainant,	)	
v.	)	**Case No. WC-2018-0352**
Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company 1770 N. Deffer Dr. Ste. 4 Nixa, MO 65714	)	
Respondent.	)	
CERTIFIED MAIL	)	

ORDER GIVING NOTICE OF CONTESTED CASE AND DIRECTING RESPONDENT TO FILE ANSWER

Issue Date: May 29, 2018 Effective Date: May 29, 2018

On May 25, 2018, the Staff of the Missouri Public Service Commission filed a formal complaint against Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, a public utility regulated by the Commission. Staff alleges that RDE Water Company failed to file its 2017 annual report, as required by Section 393.140(6), RSMo 2016. A copy of the complaint accompanies this notice. This is a contested case[1] pursuant to Section 386.390, RSMo 2016.

The Commission will set a 30-day deadline for RDE Water Company to file an answer. In the alternative, RDE Water Company may file a written request that the complaint be referred to a neutral third-party mediator for voluntary mediation. Upon

[1] A "'[c]ontested case' means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing." Section 536.010.4, RSMo 2016.

receipt of requests for mediation, the 30-day time period shall be tolled while the Commission ascertains whether Staff is also willing to submit to voluntary mediation. If Staff agrees to mediation, the time within which answers are due shall be suspended pending the resolution of mediation. Additional information regarding the mediation process is enclosed. If Staff declines to mediate the dispute, RDE Water Company will be notified in writing that the tolling has ceased and will also be notified of the date by which answers must be filed. That period is usually the remainder of the original 30-day period.

As required by Section 536.067(2)(f), RSMo 2016, the Commission informs the parties that the Commission's provisions governing procedures before the Commission, including provisions relating to discovery, are found at Commission Rule 4 CSR 240-2.090.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send, by certified mail, a copy of this notice and order and a copy of the complaint to the registered agent for Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, at the following:

Attn: Registered Agent Lavada Deffenderfer Cottrill,
RDE Water Company
1770 N. Deffer Dr., Ste. 4
Nixa, Missouri 65714

2. RDE Water Company, shall file an answer to the complaint or request mediation no later than June 28, 2018. All pleadings (the answer, the notice of satisfaction of complaint, or request for mediation) shall be filed using the Commission's Electronic Filing and Information System or by mail to the Secretary of the Commission.

3. This order shall be effective when issued.

BY THE COMMISSION

Morris L. Woodruff
Secretary

Kim S. Burton, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 29th day of May, 2018.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,	)	
Complainant,	)	
vs.	)	**Case No. WC-2018-**
Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company,	)	
Respondent	)	

Staff's Complaint

COMES NOW the Staff of the Missouri Public Service Commission and for its *Complaint,* states as follows:

Introduction:

1. This matter concerns the failure of Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, to timely file an Annual Report as required by § 393.140(6), RSMo., and Commission Rule 4 CSR 240-3.640 (Water Corporations).

Complainant:

2. Complainant is the Staff of the Missouri Public Service Commission, acting through the Chief Staff Counsel as authorized by Commission Rule 4 CSR 240-2.070(1).

Respondents:

3. Respondent is RDE Water Company, a registered fictitious name owned by Rex Deffenderfer Enterprises, Inc., which is a Missouri general business corporation in good standing. Its principal place of business and registered

office is located at 1770 N. Deffer Dr., Ste. 4, Nixa, MO 65714. Its registered agent is Lavada Deffenderfer Cottrill, 1770 N. Deffer Dr., Ste. 4, Nixa, MO 65714.

Jurisdiction:

4. Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, owns, operates, controls or manages plant or property, or a dam or a water supply, canal, or power station, and distributes or sells for distribution, or sells or supplies water for gain, within Christian County, State of Missouri.

5. Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, is thus a water corporation pursuant to § 386.020(59), RSMo., and a public utility pursuant to § 386.020(43), RSMo.

6. As a water corporation and a public utility, Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, is subject to the jurisdiction, regulation and control of this Commission. Section 386.250, RSMo., and Chapters 386 and 393, RSMo., the *Public Service Commission Law.*

7. Section 386.390.1, RSMo., authorizes the Commission to hear and determine complaints:

> Complaint may be made by the commission of its own motion, or by the public counsel or any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission . . . .

8. The Commission has by rule authorized the Staff Counsel's Office to bring complaints on behalf of the Staff: "A complaint may also be filed by . . . the commission staff through the staff counsel . . . ."[1]

9. Section 393.140(6), RSMo., provides:

> The Commission shall:
>
> * * *
>
> (6) Require every person and corporation under its supervision and it shall be the duty of every person and corporation to file with the commission an annual report, verified by the oath of the president, treasurer, general manager or receiver, if any, thereof. The verification shall be made by said official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same, shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail the amount of its authorized capital stock and the amount thereof issued and outstanding; the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; its receipts and expenditures during the preceding year; the amount paid as dividends upon its stock and as interest upon its bonds; the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the person or corporation making such report to amend the same within a time prescribed by the commission. * * *

10. Commission Rule 4 CSR 240-3.640 provides in pertinent part:

> (1) All water utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

[1] Rule 4 CSR 240-2.070(1).

11. Section 393.140(6), RSMo., further provides for a penalty of $100.00 plus $100.00, “for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state.”

Facts and Cause of Action:

12. On September 15, 2017, the Commission’s General Counsel brought an action for penalties against Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, for failing to file its 2016 Annual Report, due to the Commission on April 15, 2016. That case was dismissed on May 3, 2018, after Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, submitted its 2016 Annual Report to the Commission as required by law.

13. Although its 2017 Annual Report was due on April 15, 2018, Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, neither filed the required report nor requested an extension of the due date.

14. Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company, is therefore in violation of § 393.140(6), RSMo., and Commission Rule 4 CSR 240-3.640(1).

WHEREFORE, Staff prays that the Commission will give due notice to the Respondent and, after hearing, determine that Respondent has violated § 393.140(6), RSMo., and Commission Rule 4 CSR 240-3.640(1) as set out above, and thereupon authorize its General Counsel to seek in Circuit Court the penalties allowed by law; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson
Kevin A. Thompson
Missouri Bar Number 36288
Chief Staff Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-751-6514 (Voice)
573-526-6969 (Fax)
kevin.thompson@psc.mo.gov

Attorney for Staff of the
Missouri Public Service Commission

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
http://psc.mo.gov

Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is a process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. The Regulatory Law Judges at the Public Service Commission are trained mediators and this service is offered to parties who have formal complaints pending before the Public Service Commission at no charge. In addition, the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

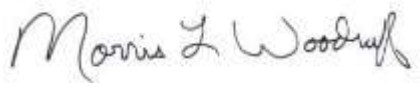
The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9)

occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The Judge assigned to be the mediator will not be the same Judge assigned to the contested complaint.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case. If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.



Morris L. Woodruff
Secretary

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 29th day of May 2018.

Morris L. Woodruff
Secretary

MOPSC Digitally signed by MOPSC
Date: 2018.05.29 13:52:39 -05'00'

MISSOURI PUBLIC SERVICE COMMISSION

May 29, 2018

File/Case No. WC-2018-0352

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounselservice@psc.mo.gov

Office of the Public Counsel
Hampton Williams
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

RDE Water Company
Legal Department
1770 North Deffer Drive, Ste. 4
Nixa, MO 65714

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

Morris L Woodruff

Morris L. Woodruff
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.