

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	
vs.	)	<u>Case No. WC-2018-</u>
	)	
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

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