

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	
v.	)	<u>Case No. WC-2018-0352</u>
	)	
Rex Deffenderfer Enterprises, Inc.,	)	
d/b/a RDE Water Company,	)	
	)	
Respondent	)	

STAFF MOTION FOR DEFAULT DETERMINATION

COMES NOW the Staff of the Missouri Public Service Commission, through the undersigned counsel, and for its *Motion for Default Determination* pursuant to Commission Rule 4 CSR 240-2.070(10), states as follows:

Introduction

1. Staff filed its *Complaint* on May 25, 2018, asserting that Respondent Rex Deffenderfer Enterprises, Inc., d/b/a RDE Water Company (“Company” or “RDE”) failed to submit its 2017 annual report as required by Section 393.140(6), RSMo¹ and Commission Rule 4 CSR 240-3.640(1). For relief, Staff prays that the Commission authorize the General Counsel’s Office to bring a penalty action against the Respondent in circuit court as provided in Sections 386.600, 386.570, and 393.140(6), RSMo.

2. Respondent’s answer was due by June 28, 2018, but Respondent failed to answer.

¹ All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (“RSMo”), revision of 2000.

General Allegations

3. Respondent is a “water corporation” as defined by Section 386.020(59), RSMo, and a “public utility” as defined by Section 386.020(43), RSMo, and thus is subject to the jurisdiction of this Commission pursuant to Section 386.250(3), RSMo.

4. Section 386.390.1, RSMo authorizes the Commission to entertain a complaint “setting forth any act or thing done or omitted to be done by any...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.”

5. Section 386.600, RSMo provides, “an action to recover a penalty...under this chapter or to enforce the powers of the commission under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission.”

6. Section 393.140(6), RSMo requires every water corporation to file with the Commission an annual report, and Rule 4 CSR 240-3.640(1) requires the annual report to be filed with the Commission on or before April 15 of each year.

7. As of the date of this filing, Respondent has failed, omitted, or neglected to file its calendar year 2017 annual report.

8. Section 393.140(6), RSMo states, “[a]ny such person or corporation which shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same...”

Standard for Entering Default Judgment

11. Commission Rule 4 CSR 240-2.070(10) provides, "If the respondent in a complaint case fails to file a timely answer, the complainant's averments may be deemed admitted and an order granting default entered."

12. The Commission directed Respondent to answer the Complaint by June 28, 2018, but Respondent failed to answer.

WHEREFORE, the Staff prays that the Commission will deem the averments of Staff's *Complaint* admitted and enter an order granting default determination against the Respondent; and grant such other and further relief as the Commission deems just in the circumstances.

Respectfully submitted,

/s/ Mark Johnson

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Attorney for the Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record this 2nd day of November 2018.

/s/ Mark Johnson