

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

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant,	)	
	)	<b><u>Case No. WC-2020-XXXX</u></b>
v.	)	
	)	
	)	
Rex Deffenderfer Enterprises, Inc. d/b/a RDE Water Company,	)	
	)	
Respondent	)	

**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 for 2018 as required by § 393.140(6), RSMo, and Commission Rule 4 CSR 240-10.145(1), and to pay the Company's annual Public Service Commission Assessment.

**Parties**

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

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 at 1770 N. Deffer Dr., Ste. 4, Nixa, MO 65714.

4. Lavada Cottrill and Jimmy J Deffenderfer, per EFIS, are the official representatives of Respondent Company.

5. On information and belief, RDE has more than 1,000 Missouri water service customers.

### **Jurisdiction**

6. Respondent owns, operates, controls, or manages plant or property, or a dam or water supply, canal, or power station, and distributes or sells for distribution, or sells or supplies water for gain, within Christian County, MO.

7. Respondent Company is thus a water corporation pursuant to § 386.020(59), RSMo, and a public utility pursuant to § 386.020(43).

8. As a water corporation and public utility, Respondent Company is subject to the jurisdiction, regulation and control of the Commission.

9. 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.”

10. 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.”

## **Count I: Respondent Failed to File a 2018 Annual Report**

11. Section 393.140(6) RSMo, states:

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. Any 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, 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. The commission may extend the time prescribed for cause shown.

12. Commission Rule 4 CSR 240-10.145(1) provides in pertinent part:

All electric, gas, water, sewer, and steam heating utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided in this rule.

13. Respondent Company's 2018 Annual Report was due on April 15, 2019.

Respondent neither filed the required report nor requested an extension of the due date.

14. Respondent is therefore in violation of § 393.140(6) RSMo and Commission Rule 4 CSR 240-10.145(1).

**WHEREFORE**, Staff respectfully requests the Commission give notice to the Respondent as required by law and, after the opportunity for hearing, issue an order that finds the Respondent has violated § 393.140(6), RSMo and Commission Rule 4 CSR 240-10.145(1), as set out above, and thereupon authorize its General Counsel to seek in Circuit Court the penalties allowed by law; and grant such further relief as is just under the circumstances.

**Count II: Respondent Failed to Pay Fourth Quarter Commission Assessment**

15. Section 386.370(2) RSMo states:

The commission shall allocate to each such group of public utilities the estimated expenses directly attributable to the regulation of such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group as the gross intrastate operating revenues of such group during the preceding calendar year bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission, as aforesaid, during such calendar year. The commission shall then assess the amount so allocated to each group of public utilities, subject to reduction as herein provided, to the public utilities in such group in proportion to their respective gross intrastate operating revenues during the preceding calendar year, except that the total amount so assessed to all such public utilities shall not exceed one-fourth of one percent of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission.

16. On June 20, 2018, the Commission, in Case No. AO-2018-0379, issued its *Assessment Order for Fiscal Year 2019* pursuant to § 386.370 RSMo. The Assessment Order fixed the amount allocated to water and sewer service providers at \$3,074,056.

17. Section 408.020 RSMo allows “creditors to receive interest at the rate of nine percent per annum, when no other rate is agreed upon...on accounts after they

become due and demand of payment is made[,]" and Complainant is statutorily entitled to prejudgment interest on Respondent Company's delinquent assessment amount.

18. On June 21, 2018, the Commission's Budget and Fiscal Services sent Respondent Company notice stating that \$2,383.42 was due no later than July 15, 2018, to keep Company's account in good standing;<sup>1</sup> in the alternative, Respondent Company could choose to pay the assessment in four equal installments.<sup>2</sup>

19. Respondent Company chose to pay the assessment in four equal installments.

20. Payments in the amount of \$595.86, \$585.85, and \$595.86 were received on July 23, 2018, October 19, 2018, and February 5, 2019, respectively.

21. The final payment of \$595.85 was due on April 15, 2019; Respondent Company failed to make that payment.

22. On April 29, 2019, Staff emailed Respondent Company, asking for payment to be made by June 30, 2019, to keep the account in good standing.<sup>3</sup> Respondent Company failed to do so.

23. As of the date of this filing, Respondent Company has failed, omitted, or neglected to pay its final installment payment of \$595.85, which was due on April 15, 2019.

24. Section 386.570.1 RSMo provides that,

Any...public utility which violates or fails to comply with any...law, or which fails to comply with any order, decision, decree, rule direction, demand or requirement, or any part or provision thereof, of the commission in a case in which a penalty has not herein been provided for such...public utility, is subject to a penalty of not less

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<sup>1</sup> Appendix A, pg. 1.

<sup>2</sup> 386.370(3) RSMo.

<sup>3</sup> Appendix A, pg. 2.

than one hundred dollars nor more than two thousand dollars for each offense.

25. Section 386.570.2 RSMo, provides that "...in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

**WHEREFORE**, the Staff respectfully requests the Commission give notice to the Respondent as required by law and, after the opportunity for hearing, issue an order that finds the Respondent has failed to pay the fiscal year 2019 assessment and authorizes the General Counsel's Office to bring a penalty action against the Respondent in circuit court as provided in §§ 386.600, 386.370, 386.570, and 408.020 RSMo., for the collection of the assessment, penalties, and interest on the assessment amount.

Respectfully submitted,

**/s/ Travis J. Pringle**  
Missouri Bar No. 71128  
Legal Counsel  
Attorney for the Staff of the  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-4140 (Telephone)  
(573) 751-9265 (Fax)  
[Travis.Pringle@psc.mo.gov](mailto:Travis.Pringle@psc.mo.gov)

### **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 15th day of July 2019.

**/s/ Travis J. Pringle**

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	)	
Complainant,	)	
	)	
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Rex Deffenderfer Enterprises, Inc. d/b/a RDE Water Company,	)	
	)	
Respondent	)	

**AFFIDAVIT OF HELEN DAVIS**

State of Missouri    )  
                              ) ss  
County of Cole        )

**COMES NOW** Helen Davis, and on her oath declares that she has participated in the preparation of the foregoing *Complaint*, and that such matters are true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

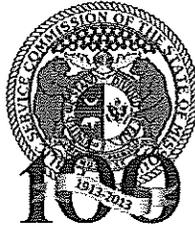
  
\_\_\_\_\_  
Helen Davis

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 15<sup>th</sup> day of July, 2019.

D. SUZIE MANKIN  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Cole County  
My Commission Expires: December 12, 2020  
Commission Number: 12412070

  
\_\_\_\_\_  
NOTARY PUBLIC



Commissioners  
DANIEL Y. HALL  
Chairman  
WILLIAM P. KENNEY  
SCOTT T. RUPP  
MAIDA J. COLEMAN  
RYAN A. SILVEY

## Missouri Public Service Commission

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

SHELLEY BRUEGGEMANN  
General Counsel  
MORRIS WOODRUFF  
Secretary  
LOYD WILSON  
Director of Administration  
NATELLE DIETRICH  
Staff Director

June 21, 2018

LaVada Cottrill  
RDE Water Company  
1770 N. Deffer Dr., Suite 4  
Nixa, MO 65714

Subject: Missouri Public Service Commission Annual Assessment

Dear Ms. Cottrill:

Pursuant to the provisions of Section 386.370 RSMo, RDE Water Company is subject to assessment as a public utility for expenses of the Missouri Public Service Commission. Pursuant to HB7, Section 7.185, 2011 Session, the Commission has been charged with collecting an assessment for the Office of Public Counsel. On June 20, 2018 the Commission determined the amount of the assessment in Case No. AO-2018-0379. Please visit our website at [www.psc.mo.gov](http://www.psc.mo.gov) to view information regarding the annual assessment.

**The total amount of assessment due for the fiscal year beginning July 1, 2018 is \$2,383.42.** The amount of assessment for the Public Service Commission is \$2,086.78 (Water). The amount of assessment for the Office of Public Counsel is \$296.64 (Water).

In making payment, please observe the following instructions:

1. Make check payable to: Director of Revenue, State of Missouri  
Submit payment to: Missouri Public Service Commission  
Attn: Budget & Fiscal Services  
Mail to: P.O. Box 360                      Overnight Delivery: 200 Madison Street  
Jefferson City, MO 65102                      Jefferson City, MO 65101
2. July 15, 2018 is the due date for this assessment. At your option, you may pay the assessment in quarterly installments. If you choose quarterly installments, they are due on the following dates:  

July 15, 2018	October 15, 2018
January 15, 2019	April 15, 2019
3. To ensure proper credit, please submit a copy of this notice with your payment.

If you have questions regarding the Missouri Public Service Commission assessment, please contact the Budget & Fiscal Services Department at (573)751-4274.

Sincerely,

Loyd Wilson  
Director of Administration

## Davis, Helen

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**From:** Davis, Helen  
**Sent:** April 29, 2019 8:33 AM  
**To:** 'Waterlady18@att.net'; JimDeff@att.net  
**Cc:** Stockman, Lisa  
**Subject:** FY2019 MoPSC Assessment - Final Payment PAST DUE (RDE Water Company)  
**Attachments:** RDE Water Company.pdf

In June 2018, the Missouri Public Service Commission issued an order in Case No. AO-2018-0379 determining the amount of assessment owed by each regulated utility company. On June 21, 2018 the Commission notified RDE Water Company (see attachment) of the amount of their assessment for the fiscal year beginning July 1, 2018. Payment of **\$2,383.42** was due on July 15, 2018 with the option to make quarterly payments due on July 15, 2018, October 15, 2018, January 15, 2019 and April 15, 2019. Section 386.570 RSMo 2010 provides for penalties of \$100 to \$2,000 per day for failure to comply with any Commission order or demand. Payments in the amount of \$595.86, \$585.85 and \$595.86 were received on July 23, 2018, October 19, 2018 and February 5, 2019, respectively.

**Please remit payment of \$595.85 by June 30, 2018 to keep this account in good standing.**

Please submit payment to:

Missouri Public Service Commission  
Attn: Budget & Fiscal Services  
P.O. Box 360  
Jefferson City, MO 65102

*Overnight Delivery Address:*

Missouri Public Service Commission  
Attn: Budget & Fiscal Services  
200 Madison Street  
Jefferson City, MO 65101

**If payment has recently been mailed, please disregard this notice.**

Thanks!

### ***Helen Davis***

Mo. Public Service Commission  
Budget & Fiscal Services  
P.O. Box 360  
Jefferson City, MO 65102  
Telephone: (573)751-4274