

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 5th day of
December, 2018.

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

ORDER GRANTING DEFAULT DETERMINATION

Issue Date: December 5, 2018

Effective Date: January 4, 2019

On May 25, 2018, the Commission's Staff ("Staff") filed a complaint against Rex Deffenderfer Enterprises, Inc., ("Respondent") alleging the Respondent Failed to file its 2017 annual report. Staff asked the Commission to authorize the Commission's General Counsel to bring an action in circuit court for penalties.

Respondent's answer was due on June 28, 2018, but Respondent made no response. Staff filed a motion for default on November 2, 2018. Respondent filed no response within the time set by regulation.¹ Therefore, the Commission will grant the motion and deem the complaint's allegations admitted as follows.²

¹ 4 CSR 240-2.080(13).

² 4 CSR 240-2.070(10). By this rule, Respondent has seven days from the issue date of this order to file a motion to set aside the order of default.

Findings of Fact

Respondent is RDE Water Company, a registered fictitious name owned by Rex Deffenderfer Enterprises, Inc. RDE Water Company 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.

RDE Water Company is a water corporation and public utility. Its annual report was due to be filed by April 16, 2018.³ RDE Water Company has failed to file its 2017 annual report with the Commission.

Conclusions of Law

The Commission has jurisdiction over Respondent⁴ because Respondent is a water corporation,⁵ which is a public utility.⁶ The Commission has authority to hear the complaint because the statutes provide:

Complaint may be made by the commission of its own motion . . . in writing, setting forth any act or thing . . . omitted to be done by any . . . public utility . . . in violation, of any provision of law, or of any rule . . . of the commission [.⁷]

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 [.⁸]

³ Commission Rule 4 CSR 240-3.640(1).

⁴ Section 386.250(3). All sections are in the 2016 Revised Statutes of Missouri.

⁵ Section 386.020(59).

⁶ Section 386.020(43).

⁷ Section 386.390.1.

⁸ Section 393.140(6).

Respondent's deemed admissions establish that Respondent failed to file its 2017 annual report. The Commission thus concludes that Respondent violated the provisions that require the annual report to be filed by April 16, 2018.

Consequently, Staff seeks the remedy provided by statute:

Any such person or corporation which shall neglect to make 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 [⁹]

The statutes commit that action to the Commission's General Counsel:

An action to recover a penalty . . . 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. [¹⁰]

The Commission will authorize the Commission's General Counsel to seek penalties under that statute.

THE COMMISSION ORDERS THAT:

1. The Staff Motion for Default Determination is granted.
2. The Commission's General Counsel is authorized to bring an action in circuit court for penalties for any violation described in the body of this order.
3. This order shall be effective on January 4, 2019.

⁹ Section 393.140(6).

¹⁰ Section 386.600.

4. This file shall be closed on January 5, 2019.

BY THE COMMISSION



A handwritten signature in dark ink, reading "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall,
Rupp, and Coleman, CC., concur.

Pridgin, Deputy Chief Regulatory Law Judge

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 5th day of December 2018.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

December 5, 2018

File/Case No. WC-2018-0352

**Missouri Public Service
Commission**

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RDE Water Company

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

Sincerely,



**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.