

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

In the Matter of the Application of Rex)	
Deffenderfer Enterprises, Inc. d/b/a RDE)	
Water Company For Authority to Sell)	<u>Case No. WM-2022-0246</u>
Certain Water Assets to The City of Nixa,)	
Missouri, and, in Connection Therewith,)	
Certain Other Related Transactions)	

**PUBLIC COUNSEL’S MOTION FOR
CUSTOMER NOTICE AND LOCAL PUBLIC HEARING**

COMES NOW the Office of Public Counsel (Public Counsel) and moves the Commission to set a local public hearing in this case, and not only order RDE Water Company to provide notice of that hearing to its customers, but also to include particular information regarding the impacts on RDE Water Company’s customers should the sale close as follows:

1. Based on the contract between them attached to RDE Water Company’s application in this case the City of Nixa has contracted to purchase the water utility assets of RDE Water Company for \$2.5 million (Section 2.03 Purchase Price, page 8 of 30 of Appendix A to application).

2. According to the Commission’s Staff RDE Water Company has approximately 1,300 customers, a net rate base of \$332,418 as of December 31, 2021, and its rates were last set in Case No. WR-2016-0267 based on a net rate base of \$416,561 as of April 30, 2016. In contrast, Staff reports that the City of Nixa serves approximately 9,490 customers—8,914 residential, 536 commercial, and 40 industrial. If the sale closes, the City of Nixa’s customer count will increase by nearly 14% (1,300 ÷ 9,490).

3. The information in Attachment A appears on a webpage that is located at [RDE Utility Transition | Nixa, MO](#) (accessed 11:56 AM, April 29, 2022). It provides some historical context, and indicates the City will hold a public meeting about the water system acquisition, but

provides no information as to when or where that meeting is to occur. It also includes two separate questions and answers to the effect that, if Nixa City Council approves, former RDE Water Company customers can obtain inside city limits rates if they consent to be annexed by the City of Nixa. Outside city limits rates are 1.5 times of inside city limits rates.

4. In its recommendation Staff states, “The City Council has suggested that the [1.5x] multiplier may be removed in the future for all customers outside the city” (page 3 of 5); however, as indicated above, it appears that consent to annexation by the City of Nixa is the means by which the City is contemplating that former RDE Water Company customers may avoid the 1.5x rate(s) multiplier.

5. Staff also states on page 3 of 5 of its memorandum, “Under the current city rates, without including the multiplier, the current RDE customers would only experience an increase of approximately \$3.53 for an average of 5,000 gallons of water usage per month.” With the 1.5x rate multiplier, current RDE residential customers with an average of 5,000 gallons of water usage per month would experience a bill increase of \$12.89 per month (\$30.06 - \$17.17), over 75%, based on current city rates—\$22.50 for first 3,000 gallons plus \$4.28 per 1,000 over 3,000.

6. Only Staff addresses notice to customers, about which it says:

Customer Notice

RDE and Nixa negotiated a series of agreements since July 2020 allowing transfer of RDE’s water production assets to the City. The RDE service area is near the service area of the City and will be easily inter-connected. Nixa believes that adding the RDE’s water system to its present system will be beneficial to both systems in regards to water pressure, circulation of water, and fire protection. *At the time of this memo, the City has not directly notified the customers of RDE of the sale, but has stated the news has become well known due to media coverage of the two City Council meetings where it was discussed. The City intends to send out a public notification to its customers. According to Doug Colvin, the Assistant City Administrator and Director of Public Works, he has had positive feedback about*

the acquisition from a few RDE customers and the Fire Protection District.
(Emphasis added).

Of note, Staff does not say when the City of Nixa intends to send notice to *its* customers, or that anyone has targeted or sent notice to *RDE Water Company's* customers. Given that if the City of Nixa acquires RDE Water Company's assets, RDE Water Company's present customers will be faced with the prospect of substantially higher water bills, perhaps even if they consent to voluntary city annexation, this Commission should take steps to assure that *RDE Water Company's* customers get the best notice possible of the potential impacts of this transaction on them so that they have a real opportunity to be heard before it closes.

7. No one has submitted public comments in this case.

Wherefore, to solicit input from the public, including those who are now obtaining their public water service from RDE Water Company and whose water bills will be directly affected and when this Commission will lose oversight of those customers' water rates should this application be granted and the sale close, the Office of the Public Counsel moves the Commission to schedule a local public hearing, live and/or virtual, and order RDE Water Company to notify its customers of that hearing, and include in that notice their potential bill impacts, including that potentially to avoid having to pay the City of Nixa's outside of the city limits rate(s), they may have to consent to annexation by or be annexed into the City of Nixa.

Respectfully,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 2nd day of May 2022.

/s/ Nathan Williams

ATTACHMENT A

Summary:

The City of Nixa is in the process of purchasing the RDE Water Company. If/when this deal closes, all current RDE customers will become Nixa Utilities water customers.

RDE Water Company was initially established by Rex Deffenderfer in 1970 as a rural water system. RDE stands for Rex Deffenderfer Enterprises and has continued to be owned by the Deffenderfer family. The water system has about 1,100 total residential and commercial customers.

In 2005 and again in 2020, the owners of RDE water company approached the City of Nixa and asked if city council would consider purchasing the utility and absorb it into the Nixa Utilities water system. Other businesses had expressed interest in purchasing the utility, but the owners preferred that the City of Nixa purchase the system.

The City of Nixa performed due diligence research, conducted an appraisal, and came to an agreement on price with the business owners. The intent is for the City of Nixa to enhance the RDE water system, and eventually the systems will be combined and will enhance one another. The City of Nixa and the owners of RDE have entered into an asset purchase agreement, which, like buying a home, means there is a checklist of things to do before the sale is final and closed. We are busy working on completing those items in order to close the deal.

If you are a current RDE customer, the City of Nixa wants to assure you our intent is to provide excellent customer service and to improve the water utility which services your address.

The City of Nixa owns Nixa Utilities (which offers electric, water, and sewer services to homes and businesses in the city), meaning Nixa City Council controls these utilities on behalf of Nixa citizens. The Nixa City Council members are elected by residents inside Nixa city limits. Since the utility is publicly owned, there is no profit motive, and we only charge the cost of operating and maintaining the utilities and keeping up with the growth of the utility systems to serve new homes and businesses. Our tagline is "Count on us." That's our commitment to provide excellent customer service.

Public Meeting:

The City of Nixa invites all current RDE customers to attend a public town hall meeting to be held:

Date

Time

Location

During this meeting, the City of Nixa will present all information relevant to the transition from RDE customer to Nixa Utilities customer. You will have the opportunity at this meeting to ask any questions, to learn more about Nixa Utilities, and even to set up your account in person.

* * * *

How much does Nixa Utilities charge for water service?

Currently, Nixa Utilities charges customers who live outside Nixa city limits 1.5x the regular "inside city" rates. [Find more information about our utility rates here.](#) *If you would like to pay the "inside city" rate and be able to vote for Nixa City Council members (who serve as the board in control of Nixa Utilities), you may voluntarily sign a non-revokable (sic) consent to annex. (Pending approval by council.)* (Emphasis added).

* * * *

Does this mean my property is being annexed into Nixa city limits?

No. However, Nixa Utilities customers at any address currently outside Nixa city limits may voluntarily sign a non-revokable (sic) consent to annex in order to have their water rate reduced to the "inside city" rate. (Pending approval by Nixa City Council.)

Signing this document would allow the City of Nixa to annex your property into city limits once the city has met all other legal requirements for annexation. Nixa Utilities customers who sign this document would immediately begin paying the "inside city" utility rate(s), but the ability to vote for Nixa city council would not be added for residents of the address until the city had completed the annexation process for the property in question, and the voter registration had been updated with the county clerk's office. (Emphasis added).