

**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 Certain) **File No. WM-2022-0246**
Certain Water Assets to the City of Nixa,)
Missouri, and in Connection Therewith,)
Certain Other Related Transactions)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its Staff Recommendation, states the following:

1. On March 14, 2022, Rex Deffenderfer Enterprises, Inc. (“RDE”) filed an application for an order authorizing the sale, transfer and assignment of certain water production assets to the City of Nixa (“Nixa”).

2. On March 16, 2022, the Commission issued an Order Directing Notice and Filing setting an intervention deadline of April 15, 2022. Further, on April 25, 2022, the Commission's Staff was required to file either a recommendation on the application or a pleading indicating when the Staff anticipated filing its recommendation in this matter.

3. In its application, RDE requests a waiver of the 60 day notice requirements of 20 CSR 4240-4.017(1). RDE verified that in the past 150 days that it had no Commission communication regarding any issue likely to be substantive in this case. Staff does not oppose this request.

4. As of the time of this filing, no parties have filed to intervene in this matter. Further, Staff has completed its review of RDE’s request, and recommends that the Commission approve the transfer of assets.

5. Pursuant to Section 393.190.1, RSMo, no water or sewer corporation shall sell or transfer its assets without having first secured authorization from the Commission.

6. As explained in the Staff Memorandum, attached hereto as Appendix A, Staff reviewed the Company's request. Based upon this review, Staff determined that the proposed sale and transfer of assets from RDE to Nixa is not detrimental to the public interest. Staff recommends that the Commission approve the transfer of assets contemplated by RDE's request, with the following conditions:

a. Require RDE to notify the Commission of closing on the water assets with Nixa within five (5) days after such closing;

b. Authorize RDE to cease providing service immediately after closing on the assets;

c. If closing on RDE's assets does not take place within thirty (30) days following the effective date of the Commission's order, require RDE to submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until RDE determines that the transfer of the assets will not occur;

d. If RDE determines that a transfer of the assets will not occur, require RDE to notify the Commission of such;

e. After receiving notice of closing, cancel the respective CCN and tariff authorizing RDE to provide water service.

WHEREFORE, Staff recommends that the Commission approve the proposed transfer of assets; and grant such other and further relief as the Commission considers just in the circumstances.

Respectfully submitted,

/s/ Eric Vandergriff

Eric Vandergriff

Legal Counsel

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Attorney for the Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record on this 25th day of April, 2022.

/s/ Eric Vandergriff

MEMORANDUM

TO: Missouri Public Service Commission
Official File Case No. WM-2022-0246

FROM: David Spratt – Senior Research/Data Analyst
Ashley Sarver – Lead Senior Utility Regulatory Auditor

/s/ David Spratt / 04/25/22 /s/ Eric Vandergriff / 04/25/22
Case Manager / Date Staff Counsel / Date

SUBJECT: Staff’s Recommendation to Approve Transfer of Assets,
and Cancellation of Certificate of Convenience and Necessity

DATE: April 25, 2022

CASE BACKGROUND

On March 14, 2022, Rex Deffenderfer Enterprises, Inc. (RDE or the Company) filed an Application and Request for Waiver (Application) with the Missouri Public Service Commission (Commission), seeking authority from the Commission for RDE to sell certain water assets to the City of Nixa (Nixa or the City). RDE also seeks to cancel its Certificate of Convenience and Necessity (CCN) after the transfer of assets is accomplished, thereby relieving it of its obligation to provide water service.

The Commission issued its Order Directing Notice on March 16, 2022, and directed any interested person wishing to intervene in this case to do so no later than April 15, 2022. As of the date of this filing, no party has applied to intervene.

BACKGROUND OF THE RDE UTILITY SYSTEM AND THE CITY WATER UTILITY

RDE obtained a CCN on May 11, 1977, from the Commission in Case No. WA-77-83, authorizing it to provide water service within its certificated area, which specifically lists English Village Park (formerly known as Chalet City South), Meadow View Subdivision and Meadow View 1st Addition, located in Christian County, Missouri.

RDE provides water service to approximately 1,300 customers adjacent to the service area served by Nixa. The Company has two wells in Christian County, located near Nixa. Well #1 was drilled in 1971. This well is an eight-inch diameter well that produces approximately 220 gallons per minute (gpm) using a 30-horsepower pump. A 100 foot tall, nine foot diameter standpipe stores approximately 25,000 gallons of water. Well #1 is used as an emergency back-up well due

to previous positive bacteria tests. To rectify the problem the well needs to have permanent chlorination added. Well #2 was drilled in 1988. This well is a ten-inch diameter well that is able to produce approximately 675 gpm using a 75-horsepower pump. The water is disinfected using chlorine, and is stored in a 250,000 gallon ground storage tank near the well house. Water is pumped from the ground storage tank to the distribution system by two high service pumps each with 30-horsepower motors. According to DNR's Drinking Water Watch website, RDE has had no violations over the last five (5) years.

Nixa is a Constitutional Charter City organized and existing under the laws of Missouri. While not subject to the jurisdiction of the Commission, the City is subject to oversight by its City Council, and must adhere to Department of Natural Resources (DNR) and United States Environmental Protection Agency (EPA) regulations. It is the duty of this publicly elected City Council to control the operations of the City, as well as address any customer issues and oversee any potential changes to future rates. The principal office for Nixa is located at 715 W. Mt. Vernon in Nixa, MO. Nixa owns, operates, and maintains municipal electric, water, sewer, and trash pick-up services. The Nixa City Council approved an ordinance on February 28, 2022, approving the Asset Purchase Agreement (APA). The agreement was signed by the Mayor on behalf of Nixa.

Nixa currently provides water service to approximately 9,490 customers. Of those customers, 8,914 are residential, 536 are commercial, and 40 are industrial. According to Nixa's 2022 Operating and Capital Budget posted on its website, the City projects 2022 water revenue to be just over \$3,600,000 whereas RDE brought in just a little under \$300,000 last year in revenue.

STAFF'S INVESTIGATION

Staff reviewed the Application and attachments including the APA, and found no deficiencies. Nixa proposes to purchase all of the Company assets, and will be capable of providing service to the existing RDE customers. Staff last inspected RDE in February 2020 and has been in routine contact with the Company as they have moved toward selling the system. At this time, RDE customers are outside the city limits of Nixa. Pursuant to the APA, the City is purchasing all of the assets of RDE in regard to the provision of water service.

Rate Impact

RDE currently provides water service to its customers at the rate of \$7.72 per month plus \$1.89 per 1,000 gallon. The water rates have been in effect since November 16, 2016. Nixa currently charges its customers inside the city limits \$15.00 per month, which includes 3,000 gallons of

water each month, plus \$2.85 for each additional 1,000 gallons. Customers outside the city limits currently pay 1.5 times as much as customers inside the city limits. The City Council has suggested that the multiplier may be removed in the future for all customers outside the city. 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.

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.

Other Issues

RDE is in good standing with the Secretary of State. RDE has no delinquencies with regard to filing its annual reports through calendar year 2021, as documented on the Commission's Electronic Filing and Information System (EFIS). RDE is current on its annual assessment payments.

Rate Base

In the *Company/Staff Agreement Regarding Disposition of Small Company Rate Increase Request* in RDE's last rate case (Case No. WR-2016-0267), the parties agreed to a net rate base of \$416,561 as of April 30, 2016. Staff reviewed information provided in response to Staff's data requests and annual reports. For informational purposes in the case, Staff has updated net rate base as of December 31, 2021 to \$332,418. Since the last rate case, the Company added \$16,731 in plant in service.

The following is a breakdown of the rate base components:

| | |
|--------------------------|------------------|
| Plant in Service | \$1,932,318 |
| Accumulated Depreciation | -\$1,229,348 |
| CIAC Amortization | \$784,318 |
| Materials and Supplies | \$24,683 |
| CIAC | -\$1,179,553 |
| Net Rate Base | \$332,418 |

STAFF'S RECOMMENDATIONS AND CONCLUSIONS

It is Staff's position that this sale and transfer of assets will be beneficial to the customers. Though rates will increase, the customers will receive additional benefits. First, the City will provide an increase in staffing and full-time operations personnel, compared to RDE's current staffing. Second, the City has more technical capacity to perform the normal business tasks of the water systems. Third, the City has the financial ability to perform routine maintenance and make necessary upgrades to the water system, including adding chlorination to well #1. It appears the City is large enough and financially stable enough to handle the addition of the customers from RDE.

The City is not subject to the jurisdiction of the Commission, but the City is led by a City Council elected by the customers, who oversee and control the operations of the City, and preside over any customer issues. However, the new customers, since they are outside of the city limits of Nixa, will not have the opportunity to vote for members of the City Council or Mayor. Staff suggests this situation would be more equitable for the customers if the City Council added a non-voting member to the utility committee in order to allow former RDE customers, as well as other customers outside the city limits, to have some form of representation.

Staff, based on its review as described herein, takes the position that the proposed sale and transfer of assets from the Company to the City is not detrimental to the public interest, and therefore recommends approval with the conditions as outlined herein. Staff also recommends that following the completed transfer of assets, the Commission cancel RDE's CCN, and cancel the tariff currently in effect for the Company to provide water service.

STAFF'S RECOMMENDATIONS

Based upon the above, Staff recommends that the Commission:

1. Approve the transfer of water utility assets controlled by the Company, as requested;
2. Require RDE to notify the Commission of closing on the water assets with Nixa within five (5) days after such closing;
3. Authorize RDE to cease providing service immediately after closing on the assets;
4. If closing on RDE's assets does not take place within thirty (30) days following the effective date of the Commission's order, require RDE to submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until RDE determines that the transfer of the assets will not occur;
5. If RDE determines that a transfer of the assets will not occur, require the Company to notify the Commission of such;
6. After the above notice of transfer of assets to Nixa is received from RDE, cancel the CCN applying to RDE and the current tariff on file for the Company.

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OF THE STATE OF MISSOURI**

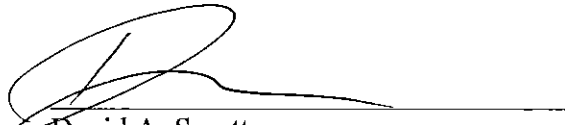
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AFFIDAVIT OF DAVID A. SPRATT

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

COMES NOW David A. Spratt, and on his oath states that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

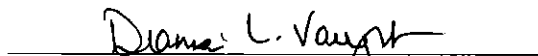
Further the Affiant sayeth not.



David A. Spratt

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 25th day of April, 2022.



Notary Public

