

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

In the Matter of Rex Deffenderfer	)	
Enterprises, Inc. Request for a Increase in	)	
Annual Water System Operating Revenues	)	<b><u>Case No. WR-2011-0056</u></b>

**STAFF’S REQUEST FOR WAIVER**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and respectfully requests the Missouri Public Service Commission (Commission) waive Commission Rule 4 CSR 240-3.050 (16). In support of this request, Staff states the following:

1. On January 28, 2011, Staff filed its *Notice of Amended Company/Staff Partial Agreement Regarding Disposition of Small Water Company Revenue Increase Request*. (Amended Company/Staff Partial Agreement).

2. In the Amended Company/Staff Partial Agreement, Rex Deffenderfer Enterprises, Inc. (RDE or the Company) and Staff listed several issues that could not be resolved and requested that the Commission resolve the disputed issues in arbitration.

3. Commission Rule 4 CSR 240-3.050 (3) provides, in pertinent part, “[i]f the [Staff] and the utility do not reach agreement on a full resolution of the utility’s revenue increase request, they may elect to arbitrate unresolved issues. Such arbitration shall allow the utility, the staff and the public counsel to present their positions on the unresolved issues to the regulatory law judge, who shall establish, on a case-by-case basis, procedures for identification and submission of issues and the presentation of the parties’ positions. . . .”

4. In the event of a partial disposition agreement between Staff and the Company and a request for arbitration, Commission Rule 4 CSR 240-3.050 (16) provides, in pertinent part, that “the utility shall file new and/or revised tariff sheets, bearing an effective date that is not

fewer than forty-five (45) days after they are filed, that reflect the terms of the agreement and its position on the issues to be arbitrated. . . .” The rule also requires the utility to provide written notice of the proposed tariff revisions to each of its customers.

5. The unresolved issues listed in the Amended Company/Staff Partial Agreement directly affect the calculation of the utility’s revenue requirement. As a result, it is not possible at this time for the utility to file new and/or revised tariff sheets and the notice would not be necessary or informative to the customers. Therefore, Staff requests that the Commission waive Commission Rule 4 CSR 240-3.050 (16).

8. Should the Commission order arbitration of the unresolved issues and grant the requested waiver, Staff requests the regulatory law judge overseeing the arbitration establish procedures for identification and submission of issues from Staff, the Company, and Public Counsel and the presentation of the parties’ positions, pursuant to Commission Rule 4 CSR 240-3.050 (3).

9. Staff also requests the Commission order Public Counsel to file a response to the Amended Company/Staff Partial Agreement prior to the date set for the identification and submission of issues to be addressed in arbitration and the parties’ positions on those issues.

**WHEREFORE**, the Staff respectfully request the Commission waive Commission Rule 4 CSR 240-3.050 (16) and establish the procedures for identification and submission of issues and the presentation of the parties’ positions under arbitration; Staff further requests the Commission order Public Counsel to file a response to the Amended Company/Staff Partial Agreement prior to the date set for the identification and submission of issues to be addressed in arbitration and the parties’ positions on those issues.

Respectfully submitted,

**/s/ Samuel D. Ritchie**

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this Request for Waiver has been provided, either by first-class mail, by electronic mail, by facsimile transmission or by hand-delivery, to each attorney and/or party of record for this case on this 24th day of January, 2011.

**/s/ Samuel D. Ritchie**