

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

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

**THE OFFICE OF THE PUBLIC COUNSEL’S RESPONSE TO  
AMENDED COMPANY/STAFF PARTIAL AGREEMENT AND  
REQUEST FOR LOCAL PUBLIC HEARING**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response to Amended Company/Staff Partial Agreement and Request for Local Public Hearing states as follows:

1. On August 26, 2010, Rex Deffenderfer Enterprises, Inc. (RDE) initiated a small company rate increase proceeding with the Missouri Public Service Commission (Commission) requesting an increase in its water rates of \$79,821 (approx. 35.10%) per year.
2. On January 24, 2011, the Staff of the Missouri Public Service Commission (Staff) filed a Notice of Company/Staff Partial Agreement Regarding Disposition of Small Water Company Revenue Increase Request (Company/Staff Partial Agreement) indicating partial agreement between Staff and RDE regarding resolution of the revenue increase request. The Company/Staff Partial agreement stated that Staff and RDE have been unable to reach an agreement on payroll, payroll taxes, employee benefits and the effect of these items on income tax. Staff and RDE requested that the regulatory law judge initiate an arbitration procedure regarding these unresolved issues pursuant to 4 CSR 240-3.050(11). Public Counsel did not join in the partial agreement.

3. On January 28, 2011, Staff filed a Notice of Amended Company/Staff Partial Agreement Regarding Disposition of Small Water Company Revenue Increase Request (Amended Company/Staff Partial Agreement) which corrected a miscalculation in the agreed-upon total annualized operating revenue on the settled issues in the Company/Staff Partial Agreement.
4. On February 3, 2011, Staff filed a request to waive Commission Rule 4 CSR 240-3.050 (16) stating that unresolved issues in the Amended Company/Staff Partial Agreement directly affect the calculation of the utility's revenue requirement and therefore, it is impossible for the utility to file new and/or revised tariff sheets and notice would not be necessary or informative to the customers at this time.
5. On February 4, 2011, the Commission issued an Order establishing February 11, 2011 as the date by which Public Counsel is to respond to the Amended Company/Staff Partial Agreement. The Order also stated that if all parties agree to arbitration, then no later than February 14, 2011, the parties shall jointly file a procedural schedule for arbitration, including a deadline to submit position statements to the arbitrator prior to the date suggested for the arbitration.
6. 4 CSR 240-3.050 (17) also requires Public Counsel to file a pleading regarding the utility/staff partial disposition agreement. Public Counsel's pleading must state its position on the partial resolution and reasons for its position, state whether Public Counsel will participate in arbitration, and include any request for a local public hearing and/or an evidentiary hearing along with reasons for this request.
7. Public Counsel now states that it opposes the Amended Company/Staff Partial Agreement for the following reasons: Depreciation Expense and Reallocation of Depreciation

Reserve as reflected in the Amended Company/Staff Partial Agreement goes against rate making principals and is therefore inappropriate, unjust and unreasonable.

8. It is Public Counsel's position that the issues of depreciation expense and reallocation of depreciation reserve should be included as unresolved issues in this case.

9. Public Counsel states that it will participate in arbitration on the issues of payroll, payroll taxes, employee benefits and the effect of these items on income tax, as long as the Commission determines that Public Counsel's issues of depreciation expense and reallocation of depreciation reserve are to be included in the issues to be arbitrated in this case.

10. Should the Commission determine that Public Counsel's issues are not to be included in the issues to be arbitrated, Public Counsel states that it will not participate in arbitration and instead requests an evidentiary hearing pursuant to 4 CSR 240-3.050 (17) & (20), on all the specified issues, including the issues stated by Public Counsel as well as those stated in the Amended Company/Staff Partial Agreement.

11. It is also Public Counsel's belief that affording customers the opportunity to speak to the Commission at a hearing is a critical part of the ratemaking process. Customers should have the opportunity to voice their concerns regarding the proposed increase to the Commission at a local public hearing. Therefore, pursuant to 4 CSR 240-3.050 (17), Public Counsel requests a local public hearing.

12. Public Counsel does not object to the Commission scheduling the hearing promptly, as long as customers are given at least 7 days notice.

**WHEREFORE**, in compliance with the Commission's February 4<sup>th</sup> Order and 4 CSR 240-3.050 (17), Public Counsel respectfully submits its Response.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

**/s/ Christina L. Baker**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 8<sup>th</sup> day of February 2011:

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**/s/ Christina L. Baker**

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