

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 3rd day of
August, 2017.

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
vs.)	File No. WC-2017-0321
)	
Rex Deffenderfer Enterprises, Inc.)	
d/b/a RDE Water Company,)	
)	
Respondent.)	

ORDER GRANTING DEFAULT DETERMINATION

Issue Date: August 3, 2017

Effective Date: September 5, 2017

The Commission's staff ("Staff") charged¹ Rex Deffenderfer Enterprises, Inc., ("Respondent") with failure to file an annual report. Staff asked the Commission to authorize the Commission's General Counsel to bring an action in circuit court for penalties. Staff has the burden of proving that Respondent violated a statute or a Commission regulation.²

Respondent's answer was due on July 5, 2017,³ but Respondent made no response. Staff filed a motion for default ("motion"). Respondent filed no response within the time set by regulation.⁴

¹ Electronic Filing Information System ("EFIS") No. 1 (June 5, 2017) *Complaint*. All references to EFIS are to this File No. WC-2017-0321 except as otherwise provided.

² *In re Request for an Increase in Sewer Operating Revenues of Emerald Pointe Util. Co.*, 438 S.W.3d 482, 490 (Mo. App, W.D. 2014).

³ EFIS No. 2 (June 5, 2017) *Notice of Contested Case and Order*.

⁴ 4 CSR 240-2.080(13).

Therefore, the Commission will grant the motion and deem the complaint's allegations admitted as follows.⁵

Findings of Fact

1. Respondent is a Missouri corporation in good standing. Respondent does business under the fictitious name of RDE Water Company.⁶ Respondent's official representatives are LaVada Cottrill and Jimmy J Deffenderfer, 1770 N. Deffer Dr., Suite 4, Nixa, MO 65714.

2. Respondent holds a certificate of convenience and necessity ("CCN") authorizing Respondent to provide water service to the public for gain in Christian County⁷ and provides water service to approximately 1,138 residential customers in Christian County, Missouri.

3. Respondent failed to submit an annual report for calendar year 2016 ("2016 annual report").

4. On May 10, 2017, Staff mailed a letter to Respondent notifying Respondent that the Commission had not received Respondent's 2016 annual report. The letter also stated that Respondent would be subject to legal action if Respondent did not file its 2016 annual report by May 20, 2017. Respondent did not file its 2016 annual report by May 20, 2017.

5. As of the date of this order, Respondent has not filed its 2016 annual report.

⁵ 4 CSR 240-2.070(10).

⁶ File No. WN-2016-0326 *In the Matter of Name Change Application from Rex Deffenderfer Enterprises Inc. to Rex Deffenderfer Enterprises, Inc. d/b/a RDE Water Company*, EFIS No. 6 (June 22, 2016) Order Recognizing Name Change.

⁷ File No. WA-77-83 *In the Matter of Rex Deffenderfer Enterprises Inc., a Missouri Corporation, for a Certificate of Convenience and Necessity to Construct, Install, Operate, and Maintain a Water System in a certain described area in Christian County* (not in EFIS, August 31, 1977) Report and Order.

Conclusions of Law

The Commission has jurisdiction over Respondent⁸ because Respondent is a water corporation,⁹ which is a public utility.¹⁰ 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 [. ¹¹]

Staff cites the provision of law requiring Respondent to file an annual report:

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 [. ¹²]

Staff also cites the Commission regulation that made Respondent's annual report due on April 15, 2017.¹³

Respondent's deemed admissions establish that Respondent failed to file the 2016 annual report, so the Commission concludes that Respondent violated the provisions that require the annual report, starting on April 16, 2017.

Consequently, Staff seeks the remedy provided by statute:

⁸ Section 386.250(3). All sections are in the 2016 Revised Statutes of Missouri.

⁹ Section 386.020(59).

¹⁰ Section 386.020(43).

¹¹ Section 386.390.1.

¹² Section 393.140.

¹³ 4 CSR 240-3.640(1).

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 [. ¹⁴]

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. [¹⁵]

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 September 5, 2017.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

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

Jordan, Senior Regulatory Law Judge

¹⁴ Section 393.140(6).

¹⁵ Section 386.600.

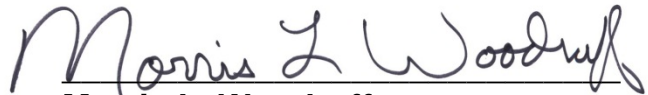
STATE OF MISSOURI

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 3rd day of August 2017.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 3, 2017

File/Case No. WC-2017-0321

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounselservice@psc.mo.gov

Office of the Public Counsel

Hampton Williams
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

**Missouri Public Service
Commission**

Marcella Forck
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
marcella.forck@psc.mo.gov

RDE Water Company

Legal Department
1770 North Deffer Drive, Ste. 4
Nixa, MO 65714

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

Sincerely,

A handwritten signature in dark ink, reading "Morris L. Woodruff". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**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.