

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

In the Matter of an Investigation into the Operations)
and Condition of Rex Deffenderfer Enterprises, Inc.,)
d/b/a RDE Water Company)

Case No. WO-2019-0247

**MOTION TO COMPEL DISCOVERY AND
MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and for its Motion to Compel Discovery states as follows:

1. Staff filed its *Motion to Open Investigatory Docket* on February 21, 2019. Subsequently, on February 27, 2019, the Commission issued its *Order Opening an Investigation* directing Staff to undertake an investigation of Rex Deffenderfer Enterprises, Inc. d/b/a RDE Water Company’s compliance with the law regarding its provision of water service in Missouri.

2. In the course of its investigation, Staff has issued sixty-four data requests (“DR”s) to RDE Water Company (“RDE”).¹ Staff initially sent its DRs to the manager of operations for RDE, Mr. Jim Deffenderfer.² On April 5, 2019, Staff mailed a letter to RDE expressing the need for the Company to respond to Staff’s DRs, along with hard copies of all of the DRs Staff had submitted up to that point in time.

3. No objection or request for additional time was made by the Company, and responses to Staff’s DRs were due on April 15th, April 17th, April 22nd, and May 2nd, respectively; to date, no responses have been provided.

¹ Staff DRs 0001 through 0009 were filed in EFIS on March 26, 2019, DRs 0010 through 0045 on March 28, 2019, DRs 0046 and 0047 on April 2, 2019, and DRs 0048 through 0064 on April 12, 2019.

² To Staff’s knowledge, as of the filing of this pleading, RDE has not secured legal counsel to represent it in this matter.

6. On or around April 19th, Staff first initiated communication with the Company's manager regarding the unanswered DRs.

7. Through further email correspondence, phone calls, and formal letters, Staff provided additional copies of its requests to RDE, and, recognizing the limited resources of small water and sewer utilities, offered to provide any necessary assistance enabling the Company to adequately respond to Staff's DRs. Despite Staff's good faith efforts, Staff's DRs remained unanswered.

8. On May 29, 2019, Staff Counsel, the Manager of Staff's Water and Sewer Department, and Mr. Deffenderfer engaged in a teleconference with the Regulatory Law Judge assigned to this case. The Judge encouraged the parties to continue to work together in addressing their discovery issues, and after the phone call, the Staff and Mr. Deffenderfer continued to discuss the matter. During that discussion, Staff again offered to provide any assistance necessary to allow RDE to respond to Staff's requests, including meeting with Mr. Deffenderfer in person.

9. On May 30, 2019, Staff, via email to Mr. Deffenderfer, again provided copies of its DRs to RDE, and requested that responses be provided to Staff no later than June 20, 2019. Included in Staff's email communication was a copy of the Commission's Discovery Rules, and the contact information of the Manager of Staff's Water and Sewer Department should Mr. Deffenderfer have any questions. Mr. Deffenderfer confirmed receipt of this email, and the attached documents, to the Manager of Staff's Water and Sewer Department on June 5, 2019, via a subsequent email.

10. Since June 5, 2019, Staff has not received any further communications from the Company or its representatives. As stated above, Staff is cognizant that it can be difficult for small water and sewer utilities to sufficiently and timely respond to discovery requests in the course of proceedings before the Commission. That being said, Staff has provided more than ample opportunity for RDE to fully respond to its DRs. Further, Staff has offered to provide any necessary assistance RDE may need in responding to the DRs at issue on multiple occasions in the course of this investigation.

11. Without receiving responses to its DRs, Staff is unable to adequately investigate all aspects of the operations of RDE Water Company. RDE's continued refusal to respond to Staff's discovery requests amounts to an intentional obstruction of Staff's fact-finding efforts in this investigation. As such Staff seeks an Order compelling the Company to respond to Staff's discovery.

Motion for Expedited Treatment

12. Pursuant to the Commission's February 27, 2019, *Order Opening an Investigation*, Staff must file a Report detailing its findings no later than August 30, 2019. In order to provide adequate time for Staff to review RDE's responses, perform any necessary follow up discovery, and meet the August 30, 2019, filing deadline, Staff requires responses to its DRs in short order. Further, in its attempts to amicably resolve this discovery dispute with RDE, Staff has provided the Company with more than three times the required amount of time in which to respond. Therefore, considering the deadline for Staff to file its Report, and the time already provided to the Company to provide responses, pursuant to 4 CSR 240-2.080(14), Staff requests the Commission issue an order as soon as reasonably practical requiring RDE to respond to Staff's

outstanding DRs no later than June 28, 2019. Staff filed this pleading as soon as it could after RDE's failure to respond to Staff's DRs by June 20, 2019, and there will be no negative impact upon customers or the general public by granting this request.

WHEREFORE, Staff respectfully requests that the Commission issue an Order compelling Rex Deffenderfer, Inc. d/b/a RDE Water Company, to comply with producing responsive answers to Staff's data requests no later than June 28, 2019; and grant such other and further relief as the Commission considers just in the circumstances.

Respectfully submitted,

/s/ Mark Johnson

Mark Johnson
Deputy Staff Counsel
Missouri Bar Number 64940
Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-7431 (Telephone)
(573) 751-9285 (Fax)
mark.johnson@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered to the parties and/or their counsel of record by U.S. Postal Service postage prepaid, or by hand, or served electronically, on this 21st day of June, 2019.

/s/ Mark Johnson