



Control Number: 47998



Item Number: 36

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SOAH DOCKET NO. 473-18-2879.WS  
PUC DOCKET NO. 47998

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RATEPAYERS' APPEAL OF THE  
DECISION BY GALVESTON COUNTY  
MUNICIPAL UTILITY DISTRICT  
NO. 12 TO CHANGE RATES

§  
§  
§  
§

BEFORE THE STATE OFFICE

OF PUBLIC UTILITY COMMISSION  
FILING CLERK

ADMINISTRATIVE HEARINGS

**JOINT MOTION TO ADMIT EVIDENCE AND REQUEST THAT THE DOCKET BE  
DISMISSED FROM SOAH DOCKET AND RETURNED TO THE COMMISSION**

**COMES NOW** the Staff of the Public Utility Commission of Texas ("Staff"), representing the public interest and files this Joint Motion to Admit Evidence and Request that the Docket be Dismissed from SOAH and Returned to the Commission, and would show the following:

**I. BACKGROUND**

On January 30, 2018, 207 ratepayers represented by Omega Bay Improvement Committee ("Petitioners") filed with the Public Utility Commission of Texas (the "Commission") a petition appealing the decision of Galveston County Municipal Utility District No. 12 ("MUD 12") to change water and wastewater rates. The parties to this proceeding are MUD 12, Commission Staff, and Ms. Gwen Megale as Petitioners' representative (collectively, the "Parties").

On March 26, 2018, the Commission referred this case to State Office of Administrative Hearings (SOAH). The SOAH Administrative Law Judge (ALJ) issued Order No. 2 on May 1, 2018, which established the procedural schedule and set the hearing on the merits for October 2-4, 2018. On August 28, 2018, the SOAH ALJ issued Order No. 8, requesting that the parties file a stipulation or a status report no later than September 10, 2018.

**II. REQUEST TO ADMIT EVIDENCE**

The Parties jointly request to admit the following evidence into the record of this proceeding: (a) The Official Record of November 20, 2017 Meeting of the Board of Director, filed July 9, 2018; (b) the Direct Testimonies of Lydia Cook and William Alcorn, filed July 9, 2018; (c) a copy of the signed Unanimous Stipulation and Agreement (Attachment A); (d) Staff witness

Testimony of Andrew Novak in Support of Settlement (Attachment B); and (e) MUD 12's response to Commission Staff's first RFI, filed March 27, 2018.

**III. JOINT REQUEST THAT THE DOCKET BE DISMISSED FROM SOAH AND RETURNED TO THE COMMISSION**

The Parties respectfully request that this case be dismissed from SOAH's docket and be returned to the Commission for final processing, consistent with the attached Joint Proposed Order.

**IV. CONCLUSION**

The Parties respectfully request that an order be issued admitting the above listed documents into evidence. The Parties also respectfully requests that this case be dismissed from SOAH's docket and be returned to the Commission for final processing, consistent with the attached Joint Proposed Order.

**Dated: September 10, 2018**

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

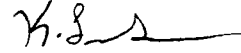


Katherine Lengieza Gross  
State Bar No. 24065610  
1701 N. Congress Avenue  
P. O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7277  
(512) 936-7268 (facsimile)  
Katherine.Gross@puc.texas.gov

**SOAH DOCKET NO. 473-18-2879.WS**  
**PUC DOCKET NO. 47998**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on September 10, 2018 in accordance with 16 TAC § 22.74.



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Katherine Lengieza Gross

**PUC DOCKET NO. 47998  
SOAH DOCKET NO. 473-18-2879.WS**

<b>RATEPAYERS' APPEAL OF THE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>DECISION BY GALVESTON COUNTY</b>	<b>§</b>	
<b>MUNICIPAL UTILITY DISTRICT</b>	<b>§</b>	<b>OF TEXAS</b>
<b>NO. 12 TO CHANGE RATES</b>	<b>§</b>	

**JOINT PROPOSED ORDER**

This Order approves the Unanimous Stipulation and Agreement (“Agreement”) entered into by and among the Public Utility Commission of Texas (the “Commission”) Staff (“Staff”), Galveston County Municipal Utility District No. 12 (“MUD 12”), and the ratepayers of MUD 12, represented by Ms. Gwen Megale on behalf of Omega Bay Improvement Committee (the “Ratepayers”) (collectively, the “Parties”). The Signatories reached an unopposed Agreement, which provides for a reasonable resolution to the issues in this docket. The Agreement is approved.

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**I. Findings of Fact**

**Introduction and Procedural History**

1. MUD 12 is a political subdivision of the State of Texas and owns and operates a water and sewer utility.
2. MUD 12’s water and sewer utility provides service to customers who live within the District’s boundaries.
3. On November 20, 2017, MUD 12 adopted an Amended Rate Order, increasing the water and wastewater rates payable by its customers.
4. On January 30, 2018, John K. Huston filed with the Commission a petition on behalf of the Ratepayers to appeal the MUD 12’s rate increase.
5. On February 1, 2018, the Commission Administrative Law Judge (ALJ) issued Order No. 1, Requiring Responses and Addressing other Procedural Matters.

6. On March 5, 2018, the Commission ALJ issued Order No. 2, Deeming Petition Administratively Complete.
7. On March 26, 2018, the Commission referred this proceeding to the State of Administrative Hearings (SOAH).
8. On April 2, 2018, the SOAH ALJ issued Order No. 1, Filing Description, Ordering Submission of Procedural Schedule, and Procedures.
9. On April 27, 2018, the Commission issued a preliminary order in this docket, addressing issued to be addressed.
10. On May 1, 2018, the SOAH ALJ issued Order No. 2, Adoption of Procedural Schedule and Setting Hearing.
11. On May 16, 2018, the SOAH ALJ issued Order No. 3, Referring Case for Mediation Evaluation.
12. On July 5, 2018, the SOAH ALJ issued Order No. 4, Granting Motion for Continuance, Amending Procedural Schedule, and Resetting Hearing.
13. On July 9, 2018, MUD 12 submitted pre-filed direct testimony on its behalf.
14. On July 31, 2018, the parties participated in mediation at SOAH, and reached a resolution of the dispute.
15. On August 2, 2018, Staff filed an unopposed motion to suspend the procedural schedule.
16. On August 6, 2018, the SOAH ALJ issued Order No. 5, Granting Motion to Suspend Procedural Schedule.
17. On August 13, 2018, parties requested the schedule be further suspended.
18. On August 14, 2018, the SOAH ALJ issued Order No. 6, Granting Second Motion to Suspend Procedural Schedule.
19. On September 10, 2018, the parties submitted a joint motion to admit evidence and request that the docket be dismissed from SOAH and returned to the Commission.
20. On \_\_\_\_\_, the SOAH ALJ issued Order No. \_\_\_, admitting evidence into the record and remanding this docket to the Commission.

**Description of the Agreement**

21. MUD 12 has not been found liable for any wrongdoing or violation of any State provision or law with regards to its November 20, 2017 decision to increase the water and wastewater rates payable by its customers.

22. Due to the approval by the voters of MUD 12 of new bond issuance authority granted to MUD 12, the increased rates set in the November 20, 2017, Amended Rate Order are no longer necessary for the maintenance and operations of the MUD 12.
23. MUD 12 agrees to issue a credit of \$10.00 per month to its customers for a period of twenty-one months.
24. The Parties will be responsible for their individual costs and attorney fees related to this proceeding. Specifically, the District will not seek recovery of its attorneys' fees for this docket.
25. MUD 12 reserves the right to accelerate the schedule of credit payments at its sole discretion.

**Reasonableness of Agreement**

27. Considered in light of entered evidence, the Stipulation is the result of compromise from each party, and these efforts, as well as the overall result of the Stipulation viewed in light of the record evidence as a whole, support the reasonableness and benefits of the terms of the Stipulation.
28. The evidence demonstrates that the rates, terms, and conditions resulting from the agreement are just and reasonable and consistent with the public interest.
29. MUD 12's water and sewer utility revenue requirement and rates are just and reasonable.
30. MUD 12's agreement to issue a credit to ratepayers is reasonable.
31. The agreement's treatment of rate-case expenses is reasonable.
32. The filings records for this proceeding for PUC Docket No. 47998 and SOAH Docket No. 473-18-2879.WS are complete and not disputed by the Parties.

**II. Conclusions of Law**

1. Galveston County Municipal Utility District No. 12 was created by order of the Texas Water Commission, now known as the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), dated September 1, 1981, and operates pursuant to the terms and conditions within Chapters 49 and 54, Texas Water Code, as amended;

2. The Commission has jurisdiction over this proceeding pursuant to Texas Water Code § 13.043(b)(4).
3. This docket was processed in accordance with the requirements of the Texas Water Code, the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.051-.052 (West 2016) and Commission rules.
4. This docket contains no remaining contested issues of fact or law.
5. The Stipulation, taken as a whole, is a just and reasonable resolution of all the issues it addresses. The Stipulation results in just and reasonable rates, terms, and conditions, is supported by a preponderance of the credible evidence in the record, is consistent with Chapter 13 of the Texas Water Code, and should be approved.
6. The rates agreed to in the Stipulation are not unreasonably discriminatory, preferential, or prejudicial.

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. Consistent with the Stipulation, MUD 12's water and sewer rates are approved.
2. A monthly refund of \$10.00 per month to MUD 12's customers for a period of twenty-one months is approved.
3. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement. Entry of this Order shall not be regarded as binding holding or precedent as to the appropriateness of any principle or methodology underlying the Stipulation.
4. Within 30 days from the end of each 7-month period in which the refund is in effect, MUD 12 shall file a report showing the amount that has been refunded to customers and the balance to be refunded. The report shall be filed in Project No. \_\_\_\_\_.
5. All other motions, requests for entry of specific findings of fact, conclusions of law, and ordering paragraphs, and any other requests for general or specific relief, if not expressly granted, are denied.



**SIGNED AT AUSTIN, TEXAS on the \_\_\_\_ day of \_\_\_\_ 2018.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DEANN WALKER, CHAIRMAN**

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**ARTHUR D'ANDREA, COMMISSIONER**

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**SHELLY BOTKIN, COMMISSIONER**

## Attachment A

**PUC DOCKET NO. 47998**  
**SOAH DOCKET NO. 473-18-2879.WS**

<b>RATEPAYERS' APPEAL OF THE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>DECISION BY GALVESTON</b>	<b>§</b>	
<b>COUNTY MUNICIPAL UTILITY</b>	<b>§</b>	
<b>DISTRICT NO.12 TO CHANGE RATES</b>	<b>§</b>	<b>OF TEXAS</b>

**UNANIMOUS STIPULATION AND SETTLEMENT AGREEMENT**

On January 30, 2018, the ratepayers (Ratepayers) of the Galveston County Municipal Utility District No. 12 (Galveston MUD 12) filed a petition with the Public Utility Commission (Commission) appealing a change in water rates by Galveston MUD 12, effective December 2017. The ratepayers represented at least ten percent of those ratepayers whose rates had been increased, and therefore are eligible to appeal the change to the Commission, which has jurisdiction to hear the appeal and set rates according to Texas Water Code § 13.043.

The Parties to this proceeding are Galveston County MUD 12, the Staff of the Public Utility Commission of Texas (Staff), and the ratepayers represented by Gwen Megale of the Omega Bay Improvement Committee (ratepayers' representative). The Parties to this proceeding participated in mediation on July 31, 2018, and as a result agree to the terms of this Unanimous Stipulation and Settlement Agreement including its attachments (collectively, Agreement). The Parties, each of whom is a signatory to this Agreement (collectively the "Signatories" and individually as "Signatory") further agree to support implementation of the Agreement. The Agreement provides for a resolution of all rate issues in this docket.

The Signatories agree that this Agreement results in just and reasonable rates and that the public interest will be served by resolution of the issues in the manner prescribed by this Agreement. The following terms are made and acknowledged by all parties in good faith, for the purpose of entering a settlement agreement in the above-styled and numbered cause. Therefore, in consideration of the mutual agreements expressed herein, the Signatories agree and stipulate as follows:

## **AGREEMENT AND STIPULATION**

1. The Signatories agree that the District has not been found liable for any wrongdoing or violation of any State provision with regards to its November 20, 2017 decision to increase the water and wastewater rates payable by its customers.
2. The Signatories agree that after the District's November 20, 2017 decision, a bond was passed in May of 2018 that alleviated the District's need for the increased rates. The District therefore, in June 2018, voted to decrease the rates back to their pre- November 20, 2017 level.
3. The Signatories agree that the District will begin crediting ratepayers' water and sewer bills a total of \$10.00 per month per connection for a period of 21 months.
4. The Signatories agree that in exchange for the District's approval of these settlement terms, the Ratepayers will release all claims in the above-styled and numbered cause, whether or not raised in this cause.
5. The Signatories agree that attorneys' fees, if any, shall be the responsibility of the individual parties. Specifically, the District will not seek recovery of its attorneys' fees for this docket.
6. MUD 12 reserves the right to accelerate the schedule of credit payments at its sole discretion.

## **PROPOSED ORDER**

The Signatories agree that the Commission should issue a proposed order, attached to the parties' Joint Motion to Admit Evidence and Request that the Docket be Dismissed from SOAH and Returned to the Commission, which is consistent with the terms of this Agreement.

## **EFFECT OF AGREEMENT**

1. The Signatories urge the Commission to adopt an appropriate order consistent with the terms stated in this Agreement. The Signatories further agree that all oral or written statements made during the course of the settlement negotiations may not be used for any purpose and are governed by TEX. R. EVID. 408. The obligations set forth in this

subsection shall continue to be enforceable, even if this Agreement is terminated as provided below.

2. This Agreement is binding on each Signatory only for the purpose of settling the issues as set out in this Agreement and for no other purpose. Except to the extent that this Agreement expressly governs a Signatory's rights and obligations for future periods, this Agreement, including all its terms, shall not be binding or precedential on a Signatory outside of this case except for a proceeding to enforce the terms of this Agreement. The Signatories acknowledge and agree that a Signatory's support of the matters contained in this Agreement may differ from its position or testimony in proceedings. To the extent there is a difference, a Signatory does not waive its position in such other proceedings. This is a settlement agreement, therefore, a Signatory is under no obligation to take the same position as set out in this Agreement in other proceedings, whether those proceedings present the same or a different set of circumstances. The Agreement is the result of compromise and was arrived at only for the purposes of settling this case. The Agreement is not intended to be precedential. A Signatory's agreement to entry of a final order of the Commission consistent with this Agreement should not be regarded as an agreement to the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principle that may have been employed in reaching this Agreement.
3. This Agreement reflects a compromise, settlement, and accommodation among the Signatories, and the Signatories agree that the terms and conditions stated herein are interdependent. If the Commission does not accept this Agreement as presented or enters an order inconsistent with any material term in this Agreement, any Signatory shall have the right to withdraw from all commitments and obligations and to seek a hearing on all issues, present evidence, and advance any positions it desires, as if it had not been a Signatory.
4. This Agreement contains the entire understanding and agreement of the Signatories, and it supersedes all other written and oral exchanges or negotiations among them or their representatives with respect to the subjects contained herein. Neither this Agreement nor any of the terms of this Agreement may be altered, amended, waived, terminated, or modified, except in writing properly executed by the Signatories.

5. There are no third-party beneficiaries of this Agreement. This Agreement is a true and complete resolution of all contested issues in this proceeding.
6. Each signing representative warrants that he or she is duly authorized to sign this Agreement on behalf of the Signatory he or she represents. Facsimile and PDF copies of signatures are valid for purposes of evidencing execution. The Signatories may sign individual signature pages to facilitate the circulation and filing of the original of this Agreement. The Signatories agree that they will use reasonable efforts to obtain expeditious implementation of this Agreement by entry of appropriate orders in Docket No. 47998.

### EXECUTION

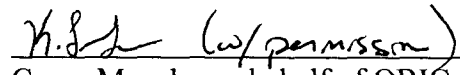
The Signatories agree that this document may be executed in multiple counterparts and filed with facsimile signatures.

The date of this Agreement is deemed to be 10<sup>th</sup> day of September 2018.

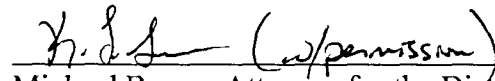
[Signature pages begin on the following page]

**AGREED:**

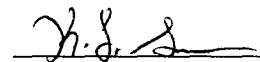
**RATEPAYERS' REPRESENTATIVE**

 (w/permission)  
Gwen Megale, on behalf of OBIC

**GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT NO.12**

 (w/permission)  
Michael Bacon, Attorney for the District

**PUBLIC UTILITY COMMISSION**

  
Katherine Lengieza Gross, Attorney, Legal Division of the Public Utility Commission

## Attachment B



**PUC DOCKET NO. 47998  
SOAH DOCKET NO. 473-18-2879.WS**

<b>RATEPAYERS' APPEAL OF THE</b>	<b>§</b>	<b>BEFORE THE STATE</b>
<b>DECISION BY GALVESTON</b>	<b>§</b>	<b>OFFICE OF</b>
<b>COUNTY MUNICIPAL UTILITY</b>	<b>§</b>	<b>ADMINISTRATIVE</b>
<b>DISTRICT NO.12 TO CHANGE RATES</b>	<b>§</b>	<b>HEARINGS</b>



**DIRECT TESTIMONY IN SUPPORT OF STIPULATION  
ANDREW NOVAK  
WATER UTILITY DIVISION  
PUBLIC UTILITY COMMISSION OF TEXAS  
September 10, 2018**

**DIRECT TESTIMONY OF ANDREW NOVAK**  
**IN SUPPORT OF STIPULATION**

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**ATTACHMENTS**

Attachment AN-1 List of Testimonies by Andrew Novak

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**I. PROFESSIONAL QUALIFICATIONS**

**Q. Please state your name and business address.**

A. Andrew Novak, Public Utility Commission, 1701 N. Congress Avenue, Austin, Texas 78711-3326.

**Q. By whom are you currently employed and in what capacity?**

A. I have been employed by the Public Utility Commission (“PUC” or “Commission”) since October 1, 2015 as a Financial Analyst in the Water Utility Regulation Division.

**Q. What are your principal responsibilities at the Commission?**

A. I am responsible for reviewing certificate of convenience and necessity (CCN) applications and amendments, sale/transfer/merger applications, tariff/rate change applications and stock transfers, and performing financial and managerial capability reviews. I am also responsible for preparing testimony and exhibits for contested case matters involving investor-owned, non-profit and governmental water and sewer retail public utilities, wholesale matters, and assisting with settlement negotiations.

**Q. Please state your educational background and professional experience.**

A. I hold a Bachelor of Business Administration degree with a major in finance from the University of Houston. Prior to my employment with the Commission, I was employed by WHN Consulting from May 2015 to September 2015.

**Q. On whose behalf are you testifying?**

A. I am testifying on behalf of the Staff of the Public Utility Commission (Staff).

---

1    **II.    PURPOSE AND SCOPE OF TESTIMONY**

2    **Q.    What is the purpose of your testimony in this proceeding?**

3    A.    The purpose of my testimony is to support the Unanimous Stipulation and Settlement  
4           Agreement (“Stipulation”) that Galveston County Municipal Utility District No. 12  
5           (“District”) and all parties have reached in this proceeding.

6    **Q.    What is the basis of your recommendation?**

7    A.    My recommendation is based on a review of The District’s direct testimony for this docket  
8           and accompanying work papers as well as the utility’s responses to requests for information  
9           (RFIs).

10

11    **III    DISCUSSION OF THE STIPULATION**

12    **Q.    What are some benefits of the stipulation?**

13    A.    The Stipulation includes, among its major benefits, the following benefits:

- 14           • The District is foregoing collection of rate case expenses for this docket; and  
15           • There will be a refund issued to customers due to a bond that was passed subsequent to  
16           the rate increase decision that is at issue in this docket.

17    **Q.    What are the primary terms of the Stipulation?**

18    A.    The Stipulation includes the following terms:

- 19           • The District will begin crediting ratepayers’ water and sewer bills a total of \$10.00 per  
20           month per connection for a period of 21 months.

- 
- 1           • The Signatories agree that in exchange for the District's approval of these settlement  
2           terms, the Ratepayers will release all claims in the above-styled and numbered cause,  
3           whether or not raised in this cause.
- 4           • The Signatories agree that attorneys' fees, if any, shall be the responsibility of the  
5           individual parties. Specifically, the District will not seek recovery of its attorneys' fees  
6           for this docket.

7   **Q.    Are the terms of the Stipulation fair and reasonable?**

8   A.    Yes, in my opinion, the implementation of the terms in the Stipulation will result in a fair  
9           and reasonable outcome for the parties. Based upon my review, the Stipulation contains a  
10          revenue requirement and return that are within a reasonable range of likely results produced  
11          from continued litigation. It is also my opinion that a fully litigated docket could potentially  
12          produce an outcome, including rate case expense, which would be less favorable to the  
13          parties.

14

15   **II.    IV. RECOMMENDATION**

16   **Q.    What is your recommendation as to the rate increase proposed by the District?**

17   A.    Based my review, I believe the rates set by the District were reasonable at the time the District  
18          made the decision to increase the rates. However, because a bond passed subsequent to that  
19          decision, the District has voted and has already set the rates back to the rates that were in  
20          place before the increase.

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1   **Q.    What is your recommendation as to the Stipulation?**

2    A.    Staff recommends that the Commission find that terms of the Stipulation are in the public  
3           interest and adopt the Stipulation in its entirety.

4   **Q.    Does this complete your testimony?**

5    A.    Yes.

## Testimony Prepared by Andrew Novak

AN-1

<u>Date</u>	<u>Organization</u>	<u>Docket No.</u>	<u>Description</u>
7/8/2016	Public Utility Commission of Texas	45248	Ratepayers Appeal of the Decision by the City of Fritch to Change Rates
7/11/2016	Public Utility Commission of Texas	45506	Complaint of Regina Lee Against C&R Water Supply
8/9/2016	Public Utility Commission of Texas	45720	Application of Rio Concho Aviation, Inc For a Rate/Tariff Change
9/20/2016	Public Utility Commission of Texas	45231	Ratepayers' Appeal of the Decision by Trophy Club Municipal Utility District No 1 to Change Rates
3/2/2017	Public Utility Commission of Texas	46322	Complaint of Playa Vista Conroe, A Condominium Association, INC Against C&R Water Supply, INC
12/15/2017	Public Utility Commission of Texas	47275	Application of The Commons Water Supply, Inc For Authority to Change Rates
4/27/2018	Public Utility Commission of Texas	47626	Application of Southwest Liquids, Inc For Authority to Change Rates
8/23/2018	Public Utility Commission of Texas	47897	Application of Forest Glen Utility Company For Authority to Change Rates
9/14/2018	Public Utility Commission of Texas	46747	Application of Cypress Gardens Homes For a Tariff/Rate Change