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PETITION BY OUT OF DISTRICT RATEPAYERS APPEALING THE WATER RATES ESTABLISHED BY THE EL PASO WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4

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PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

**RATEPAYERS' FIRST REQUESTS FOR INFORMATION TO EL PASO WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4**

To: El Paso Water Control and Improvement District No. 4, by and through its attorney of record, Drew Miller, Kemp Smith LLP, 919 Congress Ave., suite 1305, Austin, TX 78701.

Pursuant to 16 Texas Administrative Code § 22.144, Mesa Del Norte Ratepayers request that the El Paso Water Control and Improvement District No. 4 (the District) provide through its attorneys of record the following information and answer the following questions under oath. The questions shall be answered in twenty days, unless a Hearings Examiner sets a different schedule. Please copy each question and provide the answer after the question. These questions are continuing in nature, and if there is a relevant change in the answer, or if the answer was incomplete and additional documents or information are available and responsive, submit an amended or supplemental answer within five working days of discovering the new information.

Provide an original and three copies of your answers to the filing clerk for the Public Utility Commission of Texas, 1701 N. Congress Ave., P.O. Box 13326, Austin, Texas, 78712-3326. Ratepayers may be served answers electronically.

Respectfully submitted,

TEXAS RIO GRANDE LEGAL AID, INC.  
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By: /s/ Christopher Benoit

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ATTORNEYS FOR RATEPAYERS

**DOCKET NO. 49637**

**CERTIFICATE OF SERVICE**

I certify that Ratepayers' First Request for Information was served on all parties of record in this proceeding on the 25<sup>th</sup> day of June 2019 via U.S. mail, facsimile, and/or electronic mail.

By: /s/ Amy R. Johnson

Amy R. Johnson

**DOCKET NO. 49367**

**RATEPAYERS' FIRST REQUESTS FOR INFORMATION  
TO EL PASO WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4**

**INSTRUCTIONS**

1. Responses should be provided under oath, pursuant to 16 TAC § 22.144(c)(2).
2. For each question, please copy the question and provide the answer immediately following. State the name of the witness who will sponsor the answer to each question and who can testify to the truth of the answer.
3. These questions are continuing in nature, and if there is a relevant change in the answer, or if the answer was incomplete and other documents are available and responsive, submit an amended or supplemental answer within five working days of discovering the new information.
4. Words in the plural include the singular. Past tense shall be construed to include present tense, and vice versa.
5. If any document is withheld due to a claim of privilege, please furnish a list of each document for which a privilege is claimed along with a privilege log, detailing: a description of the subject matter of the document; the type of document (e.g., email, memo); date of the document; length of document; all recipients and drafters of the document; and basis for privilege.
6. Pursuant to 16 TAC § 22.144(h)(4), if the response to any request is voluminous, please provide a detailed index of the voluminous material.
7. Please contact Amy Johnson or Jennifer Richards, if there are reasonable accommodations Ratepayers might extend to lessen the burden of document production on the District.

## **DEFINITIONS**

- a. "District" or "you" means the El Paso Water Control and Improvement District No. 4, and any person acting on its behalf, including attorneys, advisors, agents, board members, employees, testifying experts, investigators, representatives, or other persons acting on behalf of the District.
- b. "And" and "or" should be read "and/or."
- c. The term "document" as used herein means the original where available, and otherwise a carbon copy, Xerox copy or other copy, in addition to each non-identical copy (whether different from the original because of marginal notes, or other materials inserted therein or attached thereto, or otherwise) of each item of correspondence, letters, memoranda, messages, notes, reports, cables, telegrams, photographs, films, tapes, and all other written communications of every kind and character, notes, recording tape, recording disc or other records of oral communications, microfilm, graphs, worksheets, schedules, exhibits, demonstrative aids, letters, contracts, agreements, leases and other instruments or documents of title, maps, logs, summaries, printouts, charts, tables, publications, compilations, minutes books, diaries, tax returns, work papers, lists, tapes, video tapes, x-rays, electrocardiograms or medical records, any other data compilations from which information can be obtained and translated, if necessary, by the responding person, into reasonable usable form, and all other papers, writings or tangible things in the actual or constructive possession, custody or control of the deponent.

- d. The “Elam subdivision” is a subdivision located west of Mesa del Norte and north of the 1988 boundary of the District.
- e. “Infrastructure” means the water or wastewater lines owned or operated by the District, pumps, meters, and any other physical components of the water and wastewater system, necessary for the delivery of services.
- f. “List” includes providing details, for a person, including name, address, and email;
- g. “Mesa del Norte” or “MDN” is a neighborhood outside of the boundaries of City of Fabens and to which the District provides service. Mesa del Norte is roughly bounded on the southeast side by 5th Street, NW Hidalgo Street, and an open space known as the “Camp School Site;” on the northeast side by the Fabens Airport; on the northwest side by farm and commercial land; and on the southwest side by North Loop Drive. Ratepayer petitioners are residents of Mesa del Norte.
- h. “Out of district” means that geographical area that is not within the geographical boundaries of WCID#4 and to which “out of district” rates are charged.
- i. “Relating to” and “regarding” includes discussing, mentioning, reporting, and analyzing.
- j. “Records” and “documents” include electronic and paper documents, photographs, videos, audio recordings, and text messages, emails.
- k. “Service” or “services” includes water and wastewater services.

#### REQUESTS

Please produce the following:

1. Describe generally all infrastructure the district has installed or purchased in the MDN neighborhood. Include in the description the cost to the district to

construct or purchase the infrastructure. Produce all documents, including contracts, accounting entries, and final receipts for the infrastructure, that document final costs to the District, as well as any documents showing how those costs are accounted for in the rates charged MDN ratepayers.

2. Describe generally all infrastructure the district has installed or purchased within the district boundaries in the past five years. This includes the cost to the district to construct or purchase the infrastructure. Provide all documents, including contracts, accounting entries, and final receipts for the infrastructure, documenting the final costs, as well as any documents showing how those costs are accounted for in the rates charged in-district and out-of-district ratepayers.
3. Please produce all documents sent to any expert or consultant for WCID #4, including Dan Jackson and economists.com, since 2010, regarding the District's water and wastewater rates.
4. How does the District contend that out-of-district ratepayers' rates are affected by the fact that those ratepayers do not pay taxes to the District? Describe all factual and legal contentions the District expects to assert regarding taxation and out-of-district ratepayers.
5. Please produce all documents regarding the non-payment of taxes to the District by out-of-district ratepayers and the effect of that lack of payment of taxes on rates charged to out-of-district ratepayers by the District.
6. Please list the costs of operating and maintaining the facilities in order to provide water and wastewater to out-of-district ratepayers and to in-district ratepayers. These costs should be separated by in-district versus out-of-district. Please produce all documents in the past five years regarding any cost differentials of service to the in- and out-of-district residential portions of these customer classes.



7. Please produce all documents, since 2010, showing the inputs, assumptions, and methodology used by any experts hired by the District, including economists.com and Dan Jackson, in proposing the base rate for the in-district and out-of-district rates as well as the annual increases of those rates.
8. What rate studies, memoranda or analyses have been provided to the District's staff or Board members in the past five years? Please produce all rate studies, memoranda or analyses prepared since 2010 and reviewed by the District to determine, review, or analyze the base rate and annual rate increases for in-district and out-of-district rates.
9. Please produce all documents showing costs of repairs and capital improvements to in-district and out-of-district infrastructure in the past five years.
10. What are the addresses of the in-district residences that are located the farthest from: (a) the District's wastewater treatment plant; or (b) the District's water well? Approximately how far are those in-district residences from: (a) the District's wastewater treatment plant; or (b) the District's water well? What are the addresses of the MDN residents located the farthest from: (a) the District's wastewater treatment plant; or (b) the District's water well? Approximately how far are those MDN residences from (a) the District's wastewater treatment plant; or (b) the District's water well?
11. Please describe the debt service of the District and explain how that debt service is distributed in determining the burden to in-district versus out-of-district ratepayers. Please produce all documents in support of the distribution of the debt service between in-district and out-of-district ratepayers.
12. Please describe the effect of inflation on the District's rates in the past five years as well as how inflation affects the rates paid by out-of-district ratepayers as compared with in-district ratepayers. Please produce all

documents in support of the distribution of the inflation between in-district and out-of district ratepayers.

13. Please describe how “the cost of doing business” by the District has affected rates in the past five years. Please produce all documents showing the total sum of those costs and the proportion of and justification for those costs included in the rate for out-of-district ratepayers as compared with in-district ratepayers.
14. How does the District contend the costs of “environmental or other regulations” have affected rates in the past five years? Please produce all documents showing the total sum of those costs and the proportion of those environmental or regulatory costs included in the rate for out-of-district ratepayers as compared with in-district ratepayers.
15. Please describe all major capital improvements in the past five years, list the beneficiary of those improvements, and describe how the District has determined how to allocate the costs of those improvements between in-district and out-of-district ratepayers. Please produce all documents showing the costs of capital improvements in the past five years, the beneficiaries of those improvements, and the methodology used to distribute the costs of those improvements in the rates for in-district ratepayers versus out-of-district ratepayers.
16. Please list the number of residential connections for in-district and out-of-district by year for the past five years.
17. Please explain which “costs are greater” for providing services out-of-district. Provide all documents regarding greater costs for providing out-of-district services.

18. Please explain how a comparison of the District's average rate for services with the State's average rate for services or other water district service operators supports an appropriate rate charged by the District to out-of-district ratepayers.
19. Provide any support for the statement that "most costs will continue to increase 3-5% per year," as described in the rate power point prepared for the district by economist.com. Provide all documents that support that statement.
20. What are the annual operating costs, capital outlays and debt service of the District for 2016 to present? Provide all documents showing operating costs, capital outlays and debt service of the District for 2016 to present.
21. How does the District allocate operating costs, capital outlays and debt service of the District for 2016 to present for in-district versus out-of-district ratepayers?
22. Please explain all the reasons why the Elam subdivision ratepayers pay in-district rates to the District whereas the Mesa del Norte subdivision residents pay out-of-district rates to the District. Please provide all documents reviewed by District staff or Board members when determining to charge residents of the Elam subdivision in-district rates.
23. Assuming the PUC finds the 2019 out-of-district rates to be **not** supported by the evidence, please list any reasons the District would contend it should not refund those rates not supported by the evidence to the MDN ratepayers.
24. Please list all experts the District contends will support the current rates proposed for out-of-district ratepayers. Please produce the name, address and curriculum vitae for all experts.

25. Please provide all documents shared with legislative officials and the Lower Valley Water District regarding services or rates to MDN ratepayers.