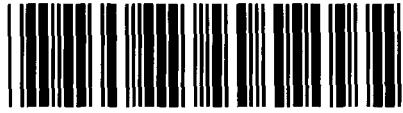


Control Number: 49367



Item Number: 49

Addendum StartPage: 0

PUC DOCKET NO. 49367

SOAH DOCKET NO. 473 – 19 – 58310

RECEIVED

SEP -6 PM 3:26

PUBLIC UTILITY COMMISSION  
FILING CLERK

PETITION BY OUT OF DISTRICT	§	BEFORE THE
RATEPAYERS APPEALING THE	§	
WATER RATES ESTABLISHED BY	§	PUBLIC UTILITY COMMISSION
THE EL PASO WATER CONTROL	§	
AND IMPROVEMENT DISTRICT NO. 4	§	OF TEXAS

**MOTION FOR FULL OR PARTIAL SUMMARY DECISION OF  
EL PASO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW Respondent El Paso County Water Control & Improvement District No. 4 (“Fabens District”) and pursuant to 16 Tex. Admin. Code § 22.182, files this Motion for Full or Partial Summary Decision on all or a portion of the issues raised in this proceeding, and would respectfully show as follows:

**I. Facts Upon Which this Motion for Summary Decision is Based**

The Fabens District is a political subdivision of the State of Texas created under Article XVI, Section 59, of the Texas Constitution (the “Conservation Amendment”), and operates as a water control and improvement district governed by Chapters 49 and 51, Texas Water Code. *See* TEX. SPEC. DIST. LOCAL LAWS CODE § 9048.051. Its jurisdictional boundaries are defined by the Texas Legislature. *See id.*, § 9048.003. The Fabens District imposes ad valorem taxes on taxable property within its boundaries.

In addition to serving its taxpayers and customers within its boundaries with water and wastewater services, the Fabens District also serves customers outside of its boundaries with those services as expressly allowed under Chapter 49, Water Code. *See* TEX. WATER CODE § 49.215. The Fabens District currently has 2,122 in-district and 261 out-of-district ratepayers for water service (for a total of 2,383 water connections), and 2,047 in-district and 194 out-of-district

ratepayers for sewer service (for a total of 2,241 sewer connections).<sup>1</sup> Naturally, the Fabens District does not impose or collect any taxes with respect to property outside of its jurisdictional boundaries, and instead relies solely on the rates charged to its out-of-district ratepayers in return for the services provided to them.

On March 22, 2019, certain out-of-district ratepayers of the District (“Petitioners”), residents of the Mesa del Norte subdivision, filed a petition with the Public Utility Commission of Texas (“PUC”) containing 83 signatures, and purporting to appeal rate increases for water and wastewater services provided by the District. More specifically, the Petitioners purport to contest:

- (1) a 5% rate increase that went into effect on January 1, 2019;
- (2) the 74.9% difference between the rates paid by out-of-district ratepayers as compared with in-district ratepayers (“In-District/Out-of-District Rate Differential”), without specifying when that rate difference went into effect;
- (3) the different rates charged by the Fabens District for different levels of water use (“Water Use Differentials”), without specifying when those rate differences went into effect.<sup>2</sup>

The PUC has referred this matter to the State Office of Administrative Hearings (“SOAH”)<sup>3</sup> and issued a Preliminary Order that identifies, for SOAH and its Administrative Law Judge (“ALJ”), the “issues that must be addressed in this proceeding.”<sup>4</sup> Those issues include whether the petition met the requirements of Tex. Water Code § 13.043(c) and 16 Tex. Admin. Code

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<sup>1</sup> See Affidavit of Jose Ramirez (with attachment) (included at Tab A).

<sup>2</sup> See Letter from Christopher Benoit to PUC with Exhibits (filed in this proceeding on March 22, 2019) (copy included at Tab B). Although the letter from counsel for the Petitioners transmitting the petition/signature pages to the PUC states that Petitioners contest “the differential rates charged for different levels of usage” the actual petition/signature pages make no mention of this issue. *See id.*

<sup>3</sup> Order of Referral (issued Jun. 27, 2019).

<sup>4</sup> Preliminary Order (issued Aug. 8, 2019) at 2.

§ 24.101(b). More specifically, the PUC has expressly determined that the following jurisdictional issues need to be addressed:

- Was the petition filed within 90 days after the effective date of the rate change?
- What number of ratepayers had their rates changed?
- Did the lesser of 10,000 or 10% of those ratepayers file valid protests to the rate change?<sup>5</sup>

## **II. Information and Materials that Demonstrate the Facts Set Forth Above**

Affidavit of Jose Ramirez – attaching Public Hearing Agenda and Minutes for Public Hearing on Rate Study (dated Dec. 15, 2015) with presentation (attached to and incorporated into those minutes) (included at Tab A)

Letter from Christopher Benoit filed with the Public Utility Commission of Texas on March 22, 2019 with attachments including Petition/Signature pages – initiating this proceeding (copy included at Tab B)

## **III. Laws and Legal Theories that Entitle the District to Summary Decision**

As shown below, the Petition should be dismissed and there should be no hearing on the merits because the PUC lacks appellate jurisdiction over the issues presented by the Petition.

Section 13.043, Water Code, establishes and describes (as well as limits) the appellate jurisdiction of the PUC over water and sewer rates. *See* TEX. WATER CODE § 13.043. Subsection (b) of that section provides that ratepayers of certain entities (including districts such as the Fabens District) “may appeal the decision of the governing body of the entity affecting their water . . . or sewer rates” to the PUC. *Id.* § 13.043(b). Subsection (c) describes exactly how such an appeal is to be initiated, stating that it –

**must be initiated by filing a petition for review with the [PUC] . . . within 90 days after the effective day of the rate change . . . The petition must be signed by the lesser of 10,000 or 10% of those ratepayers whose rates have been changed and who are eligible to appeal . . . .**

---

<sup>5</sup> *Id.*

TEX. WATER CODE § 13.043(c) (emphases added). Where these statutorily-mandated procedures are not followed, the PUC lacks jurisdiction over the appeal and must dismiss the proceeding. See, e.g., *City of Howardwick Ratepayers' Appeal of the Decision of the Red River Authority of Texas' Decision Affecting Water and Sewer Rates*, PUC Docket No. 46701, 2017 WL 697213 (Tex. P.U.C.) (“*City of Howardwick*”) (Order No. 4 Dismissing Proceeding) (issued Feb. 17, 2017) (copy attached at Tab C); *Ratepayers' Appeal of the Decision by City of Fritch to Change Water Rates*, PUC Docket No. 43086, 2015 WL 5920987 (Tex. P.U.C.) (copy included at Tab D).

As further explained below, Petitioners' attempt to appeal the District's decision to adopt a 5% across-the-board rate increase contains an insufficient number of signatures. Moreover, Petitioners' attempt to appeal the District's decision to adopt its rate differentials was not timely filed. The PUC therefore lacks jurisdiction over issues that the petition attempts to raise and this proceeding must therefore be dismissed.

**A. The petition contains an insufficient number of signatures to appeal the District's decision to impose a 5% across-the-board rate increase.**

As noted above, Petitioners attempt to appeal the District's decision to impose a 5% across-the-board rate increase. This rate increase, which became effective on January 1, 2019, applies to all of the District's ratepayers – *i.e.*, to those inside as well as to those outside of the District's jurisdictional boundaries. The Commission lacks jurisdiction over this issue because the petition is not signed by “the lesser of 10,000 or 10% of those ratepayers whose rates have been changed and who are eligible to appeal.” See TEX. WATER CODE § 13.043(c).

The total number of ratepayers whose rates have been changed as a result of the District's decision to adopt a 5% across-the-board rate increases and who are eligible to appeal is 2,383 with respect to water rates and 2,241 with respect to sewer rates. Ten percent of these amounts is 238

and 224 respectively. The petition is signed by 83 persons, which is far less than the number that would be required to appeal the 5% across-the-board rate increases.

A previous decision of the PUC is directly on point. *See City of Howardwick*, 2017 WL 697213 (Tab C). Residents of the City of Howardwick filed a petition to appeal a decision of the Red River Authority to increase retail water and sewer rates. The Authority had raised its retail water rates district-wide and, therefore, *all* of Red River's retail water customers experienced a rate change and were eligible to appeal, not just citizens of Howardwick. Because "the Authority serves 3,922 active water connections . . . at least 393 signatures of affected and eligible retail water customers were needed to perfect an appeal of Red River's water rate increase." *City of Howardwick*, 2017 WL 697213. Because the petition included only 136 signatures, the PUC determined that the residents of the City failed to meet the 10 percent requirement as set forth in Tex. Water Code § 13.043, and dismissed the petition for lack of jurisdiction.

Because the District's across-the-board 5% rate increase applies to all of its customers, the Petition, which contains 83 signatures, is deficient to initiate a challenge to the District's decision to implement that increase, and therefore Petitioners attempt to appeal that decision should be dismissed for lack of jurisdiction.

**B. Petitioners' attempt to appeal the District's decision to adopt its In-District/Out-of-District Rate Differential was not timely filed.**

Under the plain language of Tex. Water Code § 13.043, in order to appeal a rate increase, a petition must be filed with the Commission "within 90 days after the effective day of the rate change." TEX. WATER CODE § 13.043(c). The District's 74.9% In-District/Out-of-District Rate differential was established long prior to January 2019. The effective date of the In-District/Out-of-District Rate Differential that Petitioners attempt to appeal was January 1, 2016. Attached to this motion as part of Tab A are minutes from meetings held by the District's Board of Directors

on December 15, 2015, along with a rate study that was presented on that date (which is attached to and incorporated into those minutes), that show that the District 74.9% In-district/Out-of-District Rate Differential became effective on January 1, 2016. Petitioners filed their petition with the PUC attempting to appeal the In-District/Out-of-District Rate Differential on March 22, 2019, which is 1,175 days after the effective date of the In-District/Out-of-District Rate Differential. The PUC lacks jurisdiction over any appeal of the District's decision to adopt the In-District/Out-of-District Rate Differential because Petitioners' attempt to appeal that rate change not timely.<sup>6</sup>

**C. Alternatively, if PUC considers the effective date of the District's In-District/Out-of-District rate differential to be January 1, 2019, then the entire petition should be dismissed because it contains an insufficient number of signatures.**

As set forth above, the District contends that the effective date of its In-District/Out-of-District rate differential is January 1, 2015. *See supra* at 5-6. Alternatively, however, if the PUC disagrees and determines that January 1, 2019, is the effective date of the District's In-District/Out-of-District Rate Differential, then PUC still lacks jurisdiction to hear an appeal of the District's decision to adopt that differential. The District's In-District/Out-of-District Rate Differential affects not only out-of-district ratepayers but in-district ratepayers as well, and in-district ratepayers (just like out-of-district ratepayers) are eligible to appeal the District's decision to adopt the differential. Because the District's In-District/Out-of-District Rate Differential affects all of the District's ratepayers and all of those ratepayers are eligible to appeal, the petition, which contained, 83 signatures, was deficient to initiate a challenge to the District's decision to adopt that differential and the petition must be dismissed on that ground.<sup>7</sup>

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<sup>6</sup> To the extent that Petitioners seek to pursue an appeal of the District's Water Use Differential, this argument applies to that attempted appeal as well.

<sup>7</sup> To the extent that Petitioners seek to pursue an appeal of the District's Water Use Differential, this argument applies to that attempted appeal as well.

#### IV. Conclusion and Prayer

Because the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed and evidence of record show that there is no genuine issue as to any material fact, the District is entitled to a decision in its favor as a matter of law on the issues set forth herein. The District requests the Administrative Law Judge recommend dismissal of this rate proceeding in its entirety and with prejudice, and that the Public Utility Commission so dismiss this proceeding. Alternatively, the District requests that the Administrative Law Judge appropriately limit the issues to be heard in this proceeding. The District further requests that the ALJ and the Public Utility Commission of Texas grant all other relief to which the District is entitled.

Respectfully submitted,



By: \_\_\_\_\_

Andrew S. "Drew" Miller  
Andrew.Miller@kempsmith.com  
State Bar No. 00786857  
Sergio M. Estrada  
Sergio.Estrada@kempsmith.com  
State Bar No. 24080886  
KEMP SMITH LLP  
919 Congress Ave., Suite 1305  
Austin, Texas 78701  
Tel: (512) 320-5466  
Fax: (512) 320-5431

**ATTORNEYS FOR EL PASO  
COUNTY WATER CONTROL  
AND IMPROVEMENT DISTRICT  
NO. 4**



**CERTIFICATE OF SERVICE**

I hereby certify that I have served or will serve a true and correct copy of the foregoing document (including all attachments) via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail/Return-Receipt Requested to counsel for all parties on this 8th day of September, 2019, including:

Christopher Benoit  
1331 Texas Ave.  
El Paso, Texas 79901  
tel. 915-585-5118  
fax 915-544-3789  
[cbenoit@trla.org](mailto:cbenoit@trla.org)

Amy Johnson  
5836 SE Madison St.  
Portland, Oregon 97215  
tel. 503-939-2996  
[amy@savagejohnson.com](mailto:amy@savagejohnson.com)

Creighton R. McMurray  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
tel. 512-936-7275  
fax 512-936-7268  
[creighton.mcmurray@puc.texas.gov](mailto:creighton.mcmurray@puc.texas.gov)

Jennifer Richards  
4920 I-35  
Austin, Texas 78751  
tel. 512-374-2700  
fax 512-447-3940  
[jrichards@trla.org](mailto:jrichards@trla.org)



---

Andrew S. "Drew" Miller

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**AFFIDAVIT OF JOSE RAMIREZ**

BEFORE ME, the undersigned authority, on this day personally appeared Jose Ramirez who, after being duly sworn on his oath, said and deposed as follows:

1. My name is Jose Ramirez. I am over 21 years of age, of sound mind, and in all respects qualified to make this affidavit. I have personal knowledge of all facts stated in this affidavit and those facts are true and correct.

2. I am employed as the General Manager of the El Paso County Water Control and Improvement District No. 4 ("District").

3. Attached to this affidavit is a true and correct copy of the following item which is an official document of the District and kept by the District:

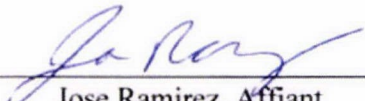
**Public Hearing Agenda and Minutes for Public Hearing on Rate Study (dated Dec. 15, 2015) with presentation (attached to and incorporated into those minutes)**

4. I have read the *Motion for Full or Partial Summary Decision of El Paso County Water Control and Improvement District No. 4* and all the facts contained therein are true and correct to the best of my knowledge.

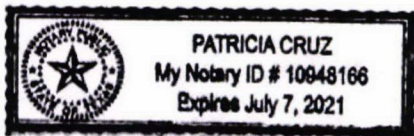
5. I further represent that the District currently has 2,122 in-district and 261 out-of-district ratepayers for water service, and 2,047 in-district and 194 out-of-district ratepayers for sewer service.

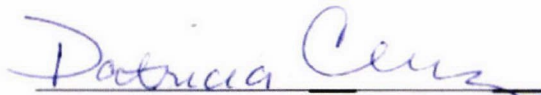
6. The effective date of the 75% differential between in-district and out-of-district water and sewer rates was January 1, 2016.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Jose Ramirez, Affiant

Sworn to and subscribed before me on this 5 th day of September, 2019.



  
\_\_\_\_\_  
Notary Public in and for the State of Texas  
July 07, 2021  
My Commission Expires



# EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4

P.O. BOX 3880  
(915) 764-2212



117 E. MAIN ST.  
FAX (915) 764-4840



FABENS, TX 79838-3880

## NOTICE

### BOARD OF DIRECTORS SPECIAL PUBLIC MEETING

## PUBLIC HEARING

**TUESDAY, DECEMBER 15, 2015 at 5:30 P.M.  
BOARD ROOM @ 117 EAST MAIN ST., IN FABENS, TEXAS**

The El Paso County W.C.I.D. #4 will convene as posted to consider and/or take action on the following agenda items: (Items do not have to be taken in the same order as shown on this meeting notice.)

### PUBLIC HEARING AGENDA

1. CALL MEETING TO ORDER.
2. ROLL CALL AND DETERMINATION OF QUORUM.
3. PLEDGE OF ALLEGIANCE.
4. APPROVAL OF MEETING AGENDA.
5. PRESENTATION OF DISTRICT RATE STUDY BY DAN JACKSON OF WILLDAN FINANCIAL SERVICES.
6. AUDIENCE COMMENTS.

You must sign in before the meeting starts, print your name and state your business before the Board.

Parliamentary rules of order will be followed.

Anyone wishing to participate will agree to the following:

1. The Board will recognize each speaker.
2. Speakers will limit their remarks to 3 minutes.
3. No personal remarks or attacks will be allowed.
4. Only one person will be allowed to speak at a time and there will be no interruptions from the audience.

### 7. ADJOURN.

I, the undersigned authority, hereby certify that the above Notice of Meeting of the Board of Directors of the El Paso County Water Control & Improvement District No. 4 is a correct copy of the Notice and that I posted the Notice at the Fabens Post Office and at the District Office Bulletin Board located at 117 E. Main Street, Fabens, Texas 79838, and provided a notice to the El Paso County Clerk for posting in accordance with the Texas Open Meetings Act as required by law.

In this Notice of Open Meeting, the posting of an agenda item as a matter to be discussed in open session is not intended to limit or require discussion of that matter in open session if it is otherwise appropriate to discuss the matter in executive session. If during the discussion of any agenda item, a matter is raised that is appropriate for discussion in executive session the Board may, as permitted by law, adjourn into executive session to deliberate on the matter.

The posting of an agenda item as a matter of law to be discussed in executive session is not intended to limit or require discussion of that matter in executive session. The Board may discuss in open session any matter for which notice has been given in this Notice of Open Meeting, including an agenda item posted for executive session. In no event, however, will the board take action on any agenda item in executive session.

Mike L. Terrazas, Jr.

General Manager

El Paso County Water Control & Improvement District #4



**EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4**  
 P.O. BOX 3880      117 E. MAIN ST.      FABENS, TX 79838-3880  
 (915) 764-2212      FAX (915) 764-4840

**MINUTES FOR PUBLIC HEARING  
 ON RATE STUDY  
 Tuesday, December 15, 2015**

1. **Call meeting to Order.**  
 President Mario Aguirre called meeting to order at 5:30 p.m.

2. **Roll Call & Determination of Quorum.**  
 Quorum existed. Meeting proceeded.

		<u>Present</u>	<u>Absent</u>	<u>Comments</u>
Mr. Mario Aguirre	President	X		
Ms Magda C. Flores	Vice President	X		
Mr. Morgan Laird	Secretary	X		
Mr. Jose Ramirez	Member	X		
Ms. Barbara Telas	Member	X		

**District Staff:**

Mr. Mike L. Terrazas, Jr	General Manager
Mr. Martin Madrid	Field Manager
Ms. Lala Garcia	Office Manager
Ms. Patricia Cruz	Administrative Assistant

**Consultants:**

Mr. Horacio Juarez	Consulting Engineer (CDM-Smith)
--------------------	---------------------------------

**Visitors:**

Mr. Dan Jackson	Willdan Financial Services
Mrs. Truena Teasley	Rasberry & Assoc.

3. **Pledge of Allegiance.**

4. **Take up, consider and take action on meeting agenda.**

**Discussion:** No discussion.

**Motion made by Ms. Flores to approve meeting agenda.**

**Seconded by Mr. Ramirez.**

**Vote:**

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Other</u>
Mr. M. Aguirre	X			
Ms. M. Flores	X			
Mr. M. Laird	X			
Mr. J. Ramirez	X			
Ms. B. Telas	X			

**Motion:** Passed



# EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4

P.O. BOX 3880  
(915) 764-2212



117 E. MAIN ST.  
FAX (915) 764-4840



FABENS, TX 79838-3880

Public Hearing  
December 15, 2015

- 5. Presentation of District Rate Study by Dan Jackson of Willdan Financial Services.  
Discussion: Mr. Dan Jackson from Willdan Financial Services gave a comprehensive PowerPoint presentation on the District's water and wastewater rate analysis and long-term financial plan. Mr. Dan Jackson suggested that the District review the rate study every three years, weather they adopt a 5 year plan or a 10 year plan.

No action required for this item.

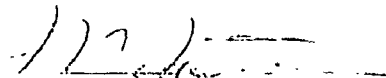
- 6. Audience Comments.  
No audience.

- 7. Motion to adjourn.  
Discussion: No discussion.  
Motion made by Mr. Ramirez to adjourn.  
Seconded by Ms. Telas.

<u>Vote:</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Other</u>
Mr. M. Aguirre	X	_____	_____	
Ms. M. Flores	X	_____	_____	
Mr. M. Laird	X	_____	_____	
Mr. J. Ramirez	X	_____	_____	
Ms. B. Telas	X	_____	_____	

Motion: Passed

Meeting Adjourned at 5:56 p.m.

  
Signature

1-26-16  
Date Approved

#5



El Paso County WCID #4

**Water and Wastewater Rate Analysis**

**And Long Term Financial Plan**

**Public Hearing**

December 2015



Page: 1

Facts about Water and Wastewater Rates  
in the 21<sup>st</sup> Century




- ❖ Average utility has been increasing rates 5-6% per year
- ❖ AWWA has stated that it expects water and ww rates across the USA to triple in the next 15 years
- ❖ Many reasons for rate increases are beyond a Utility's ability to influence
- ❖ Conclusion: higher rates are an unfortunate but inevitable fact of life in USA

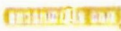


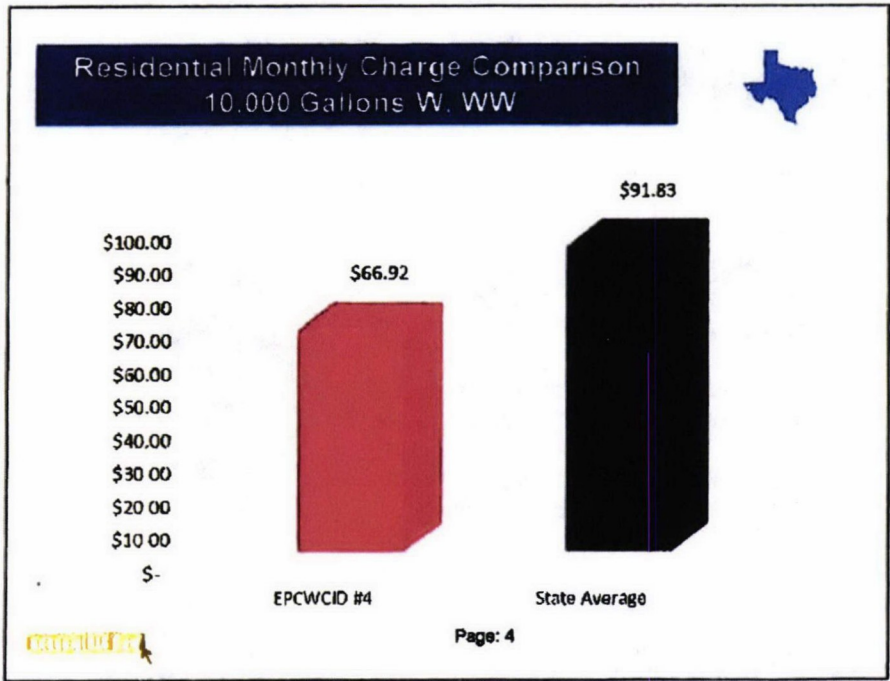
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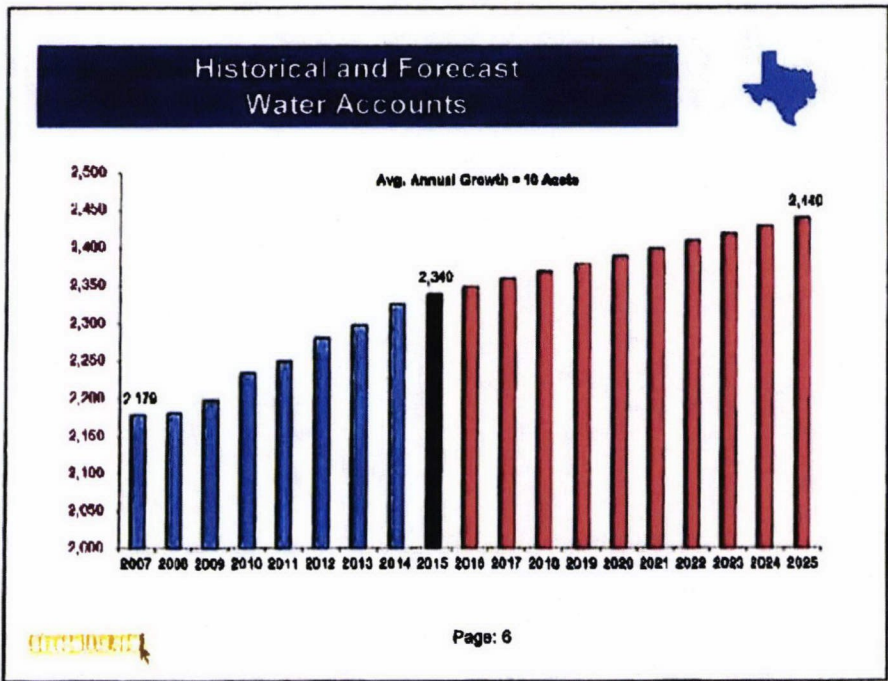
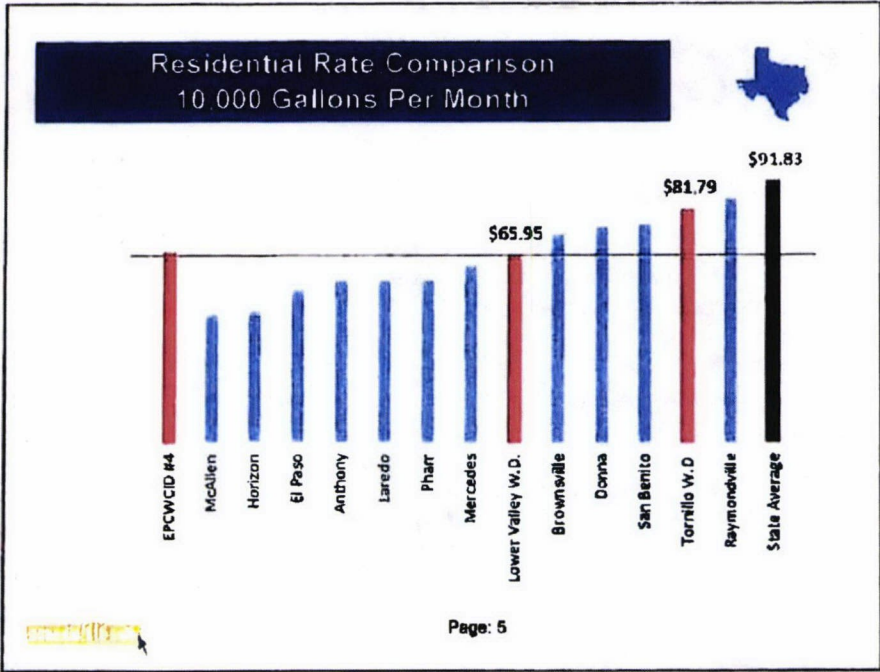
### EPCWCID #4 Current Water/WW Rates



	Residential	Commercial
Customer Charge	\$ 2.50	\$ 2.50
<b>WATER</b>		
Minimum Charge (1st 3,000 Gal)	18.32	27.87
3,001 15,000	1.84	2.28
15,001 34,000	3.18	3.88
34,001 1,000,000	3.88	4.78
1,000,001 Above	5.08	6.20
<b>WASTEWATER</b>		
Minimum Charge (1st 3,000 Gal)	29.20	56.99
3,001 Above	2.01	2.87

 Page: 3







**El Paso County WCID #4  
Cost of Service Forecast Assumptions**



**Very little growth expected**

**NADB transition assistance has ended; funding must be replaced by rate revenue**

**Most costs will continue to increase 3-5% per year**

**Most significant impact on rates – funding of repairs and capital improvements to water and wastewater system**



**Water/WW Improvement Project  
Total Capital Funding Needs**



**WATER IMPROVEMENTS**

I-10 Tank, Booster and Collection Line	\$	1,675,000
Nano Filtration System	\$	1,664,000
CC Camp to 10th Street Well Collection Line	\$	50,000

**Total 3,389,000**

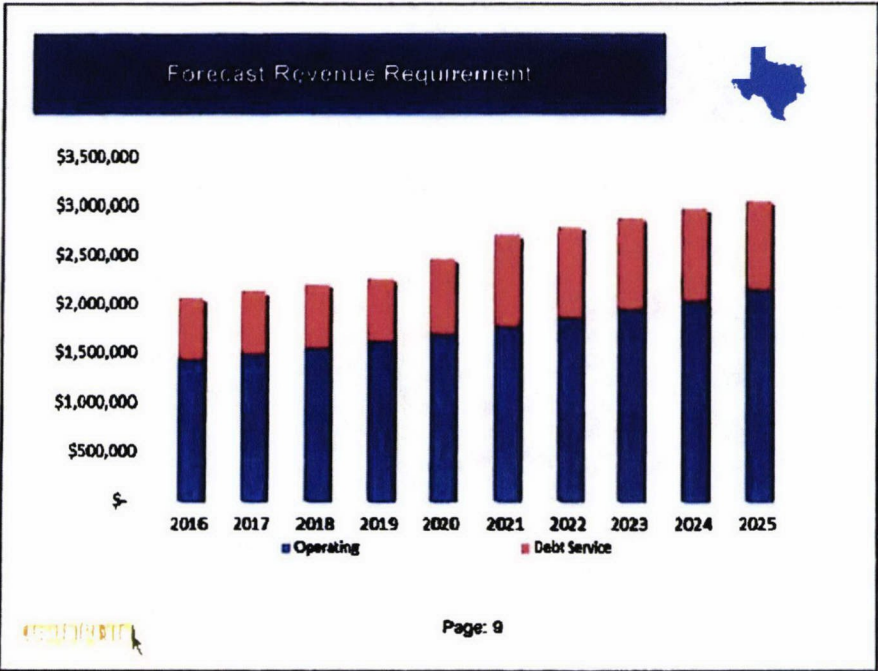
**WASTEWATER IMPROVEMENTS**

Sewer Force Main	\$	1,400,000
Hard Lift Station (Replacement)	\$	2,500,000

**Total 3,900,000**

**TOTAL IMPROVEMENTS \$ 7,289,000**





### Forecast Revenue Requirement

	2016	2017	2018	2019	2020
Operating	\$ 1,360,000	\$ 1,411,982	\$ 1,477,535	\$ 1,546,904	\$ 1,620,353
Capital Outlays	100,000	100,000	100,000	100,000	100,000
Debt Service	632,271	631,558	631,718	631,704	757,370
<b>Total Cost of Service</b>	<b>2,082,271</b>	<b>2,143,540</b>	<b>2,209,253</b>	<b>2,278,608</b>	<b>2,477,723</b>

Page: 10

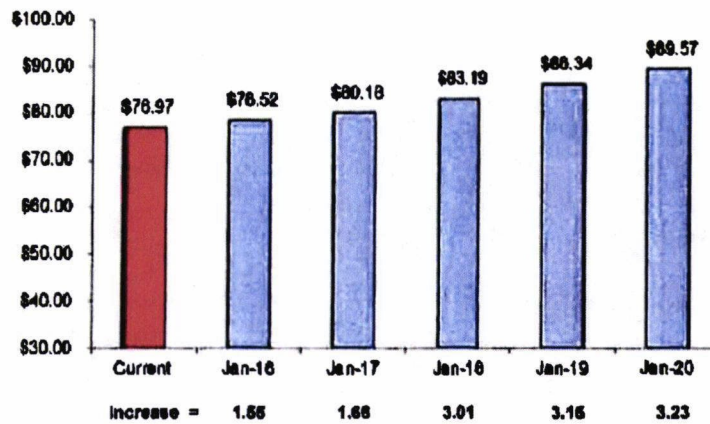
## Proposed Rate Plan Residential Inside



	Current	Effective Jan-16	Effective Jan-17	Effective Jan-18	Effective Jan-19	Effective Jan-20
<b>Customer Charge</b>	\$ 2.50	\$ 2.80	\$ 2.50	\$ 2.50	\$ 2.50	\$ 2.50
<b>WATER -- Inside Residential</b>						
<b>Minimum Charge (1st 3,000 Gal)</b>	18.32	19.24	20.20	21.21	22.27	23.38
3,001 15,000	1.84	1.93	2.03	2.13	2.24	2.35
15,001 34,000	3.18	3.34	3.51	3.69	3.87	4.06
34,001 1,000,000	3.88	4.07	4.27	4.48	4.70	4.94
1,000,001 Above	5.08	5.31	5.58	5.88	6.15	6.48
<b>WW -- Inside Residential</b>						
<b>Minimum Charge</b>	29.20	29.20	29.20	30.08	30.98	31.91
3,001 Above	2.01	2.01	2.01	2.07	2.13	2.19



## Impact on Monthly Bills -- Residential Inside 10,000 Gallons Water and WW



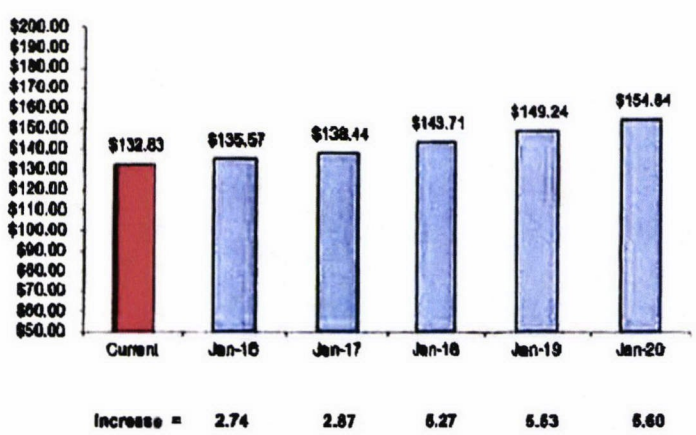
## Proposed Rate Plan Residential Outside



	Current	Effective Jan-16	Effective Jan-17	Effective Jan-18	Effective Jan-19	Effective Jan-20
<b>Customer Charge</b>	\$ 2.50	\$ 2.50	\$ 2.50	\$ 2.50	\$ 2.50	\$ 2.50
<b>WATER -- Outside Residential</b>						
Minimum Charge (1st 3,000 Gal)	32.08	33.67	35.35	37.12	38.97	40.92
3,001   15,000	3.22	3.38	3.55	3.73	3.92	4.11
15,001  34,000	5.58	5.86	6.14	6.46	6.77	7.11
34,001  1,000,000	6.80	7.12	7.47	7.84	8.23	8.66
1,000,001 Above	8.86	9.28	9.77	10.26	10.76	11.31
<b>WW -- Outside Residential</b>						
Minimum Charge	51.09	51.10	51.10	52.84	54.22	55.84
3,001   Above	3.52	3.82	3.52	3.82	3.73	3.83



## Impact on Monthly Bills -- Residential Outside 10,000 Gallons Water and WW



## Proposed Rate Plan Inside Commercial Small



	Current	Effective Jan-16	Effective Jan-17	Effective Jan-18	Effective Jan-19	Effective Jan-20
<b>Customer Charge</b>	\$ 2.50	\$ 2.60	\$ 2.60	\$ 2.60	\$ 2.50	\$ 2.50

### WATER -- Inside Commercial Small

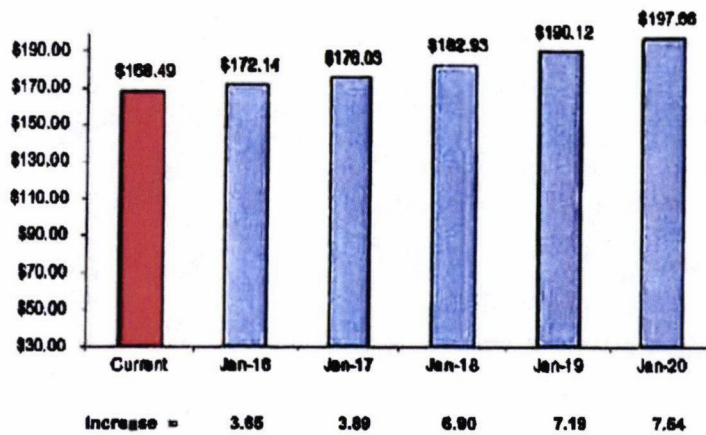
Minimum Charge (1st 3,000 Gal)	Current	Effective Jan-16	Effective Jan-17	Effective Jan-18	Effective Jan-19	Effective Jan-20
3,001	27.67	29.06	30.50	32.03	33.63	35.31
15,001	2.28	2.37	2.49	2.61	2.74	2.88
34,001	3.88	4.07	4.27	4.48	4.70	4.94
1,000,001	4.76	5.00	5.25	5.51	5.79	6.08
Above	6.20	6.51	6.84	7.18	7.54	7.92

### WW -- Inside Commercial Small

Minimum Charge	Current	Effective Jan-16	Effective Jan-17	Effective Jan-18	Effective Jan-19	Effective Jan-20
3,001	58.99	60.99	62.99	64.70	66.46	68.27
Above	2.87	2.87	2.87	2.96	3.06	3.14



## Impact on Monthly Bills - Inside Comm 10,000 Gallons Water and WW



## Proposed Rate Plan Outside Commercial Small



	Current	Effective Jan-16	Effective Jan-17	Effective Jan-18	Effective Jan-19	Effective Jan-20
<b>Customer Charge</b>	\$ 2.50	\$ 2.50	\$ 2.50	\$ 2.50	\$ 2.50	\$ 2.50
<b>WATER -- Outside Commercial Small</b>						
Minimum Charge (1st 3,000 Gal)	48.42	50.84	53.38	56.05	58.85	61.79
3,001 15,000	3.95	4.15	4.36	4.57	4.80	5.04
15,001 34,000	5.60	7.12	7.47	7.84	8.23	8.95
34,001 1,000,000	8.33	8.75	9.19	9.64	10.13	10.64
1,000,001 Above	10.85	11.39	11.97	12.57	13.20	13.86
<b>WW -- Outside Commercial Small</b>						
Minimum Charge	99.74	99.73	99.73	102.73	105.81	108.97
3,001 Above	5.03	5.02	5.02	5.18	5.34	5.60



## Impact on Monthly Bills – Outside Comm 10,000 Gallons Water and WW



**Summary**  
**Why Must EPCWCID#4 Adjust Its Rates?**



**To pay operating expenses**

**To generate sufficient funds to repair and maintain the system**

**To ensure adequate level and quality of service**

**To meet environmental standards**

**To fund \$7,289,000 in Water and WW Improvement Projects**

**EL PASO COUNTY W.C.I.D. #4  
PUBLIC HEARING MEETING ON RATE STUDY  
IF YOU WISH TO ADDRESS THE BOARD  
PLEASE SIGN IN BELOW**

**PLEASE PRINT**

**YOUR COMMENT WILL BE HEARD BUT NO ACTION WILL BE TAKEN AT THIS TIME**

MEETING DATE: Tuesday, December 15, 2015

**BY SIGNING BELOW ANY ONE WISHING TO PARTICIPATE WILL AGREE TO THE FOLLOWING:**

- 1. BOARD WILL RECOGNIZE EACH SPEAKER AS LISTED ON SIGN-IN SHEET.**
- 2. SPEAKERS WILL LIMIT THEIR REMARKS TO 3 MINUTES PER PERSON.**
- 3. NO PERSONAL REMARKS OR ATTACKS ARE TO BE MADE.**
- 4. ONLY ONE PERSON WILL BE ALLOWED TO SPEAK AT A TIME. NO INTERRUPTIONS ALLOWED.**

	<b>NAME (PLEASE PRINT)</b>	<b>PHYSICAL ADDRESS</b>	<b>ISSUE TO BE ADDRESSED</b>
1	NONE		
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EL PASO COUNTY W.C.I.D. #4

PUBLIC HEARING

**VISITORS PLEASE SIGN IN**

**PLEASE PRINT**

MEETING DATE: Tuesday, December 15, 2015

	NAME:	ADDRESS:	COMPANY NAME (IF APPLICABLE)
1	<i>Truman Teasing</i>	<i>2964 Dyer El Paso 79930</i>	<i>Risberry + Assoc.</i>
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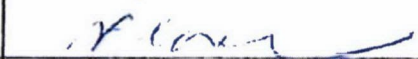
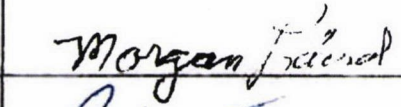
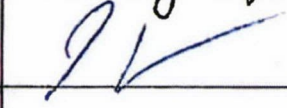

**EL PASO COUNTY W.C.I.D. #4**

**Public Hearing Meeting**

**SIGN IN SHEET**

**MEETING DATE: Tuesday, December 15, 2015**

**BOARD MEMBERS**

NAME (PLEASE PRINT)		SIGNATURE
Mario Aguirre	EPCWCID #4 Board President	
Magda C. Flores	EPCWCID #4 Vice-President	
Morgan Laird	EPCWCID #4 Secretary	
Jose Ramirez	EPCWCID Board Member	
Barbara C. Telas	EPCWCID Board Member	

and locker-room walls like I do. I'm betting you have enough space up there for another guy's take on the subject of winning: John Wooden.

it took a guy like John Wooden. As a child his father gave him seven rules to live by that would later distill down into three main rules that his players

respecting the program, the coach (him) and each other. Whereas Lombardi makes the case that winning is always better and it is something that

even more expansive set of "suggestions" that incorporated both his father's and his own set of rules. Following these rules, he promised, might lead to success if put to use. He was wrong: They led to unprecedented success.

**Wooden's do list:**

- Be a gentleman at all times.
- Be a team player always.
- Be on time whenever time is involved.
- Be a good student in all subjects - not just basketball.
- Be enthusiastic, industrious,

aggressiveness.

- Work constantly to improve without becoming satisfied.
- Acquire peace of mind by becoming the best that you are capable of becoming.

**Wooden's don't list:**

- Never criticize, nag or razz a teammate.
- Never miss or be late for any class or appointment.
- Never be selfish, jealous, envious or egotistical.
- Never expect favors.

See SPORTS, Page 8

**HOOPS FOR THE HOLIDAYS**

**WBB VS UTPB**  
DECEMBER 14 / 7:05 PM / \$3 ADMISSION

**MBB VS NM STATE**  
DECEMBER 19 / 7 PM

**MBB VS NORFOLK ST**  
DECEMBER 21 / 7 PM

**MBB VS SAM HOUSTON STATE/UC IRVINE**  
DECEMBER 22 / TBA

**WBB VS EASTERN NEW MEXICO**  
DECEMBER 28 / 7:05 PM - FREE GAME

**MBB VS UT RIO GRANDE VALLEY**  
DECEMBER 29 / 7:05 PM

**TICKETS: 747-5234**

**PUBLIC NOTICE**

**El Paso County Water Control & Improvement District No. 4**

El Paso County Water Control & Improvement District No. 4 will hold a public hearing on Tuesday, December 15, 2015 at 5:30 p.m. at the El Paso County Water Control and Improvement District No. 4 Office, 117 E. Main St., Fabens, Texas, 79838 to receive input from the citizens on the water and wastewater rate study presented by Willdan Financial Services. All interested ratepayers are encouraged to attend.

Citizens unable to attend may submit their views and proposals to the El Paso County Water Control & Improvement District No. 4, P.O. Box 3880, Fabens, Texas 79838-3880. Individuals with disabilities or that require auxiliary aids and wish to attend this meeting should contact the District Office at least 2 days before the meeting at (915) 764-2212 to arrange for assistance.

WTCC: 12-10-15

DIST000123



## EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4

P.O. BOX 3880  
(915) 764-2212



117 E. MAIN ST.  
FAX (915) 764-4840



FABENS, TX 79838-3880

### NOTICE

#### BOARD OF DIRECTORS SPECIAL MEETING TUESDAY, DECEMBER 15, 2015 at 6:00 P.M. BOARD ROOM @ 117 EAST MAIN ST., FABENS, TEXAS

The El Paso County W.C.I.D. #4 will convene as posted to consider and/or take action on the following agenda items: (Items do not have to be taken in the same order as shown on this meeting notice.)

### AGENDA

1. Call meeting to order.
2. Roll Call and Determination of Quorum.
3. Pledge of Allegiance.
4. Take up, consider and take action on meeting agenda.
5. Audience comments: 3 minute limit on speaking time per person.
6. Take up, consider and take action on meeting minutes for November 17, 2015 Special Meeting.
7. Take up, consider and take action on invoices paid from November 1 – 30, 2015 of in the amount \$141,200.93.
8. Presentation of Nano Filtration System by Horacio Juarez CDM Smith.
9. Take up, consider and take action on adoption of the Willdan Financial Services 2016-2020 Water and Wastewater Rate Plan.
10. Take up, consider and take action on 2016 Budget.
11. CDM Smith Update.
12. General Counsel Update.
13. General Manager Report.
14. Executive Session.
  - Meeting to be closed under the following Texas Government Code of the Open Meetings Act for discussion as follows:
    - A. Attorney Consultation Code 551.071
    - B. Real Property Code 551.072
    - C. Personnel Matters Code 551.074
  - Any final action as a result of this closed discussion will be held at the opening of the meeting or at any subsequent meeting.
15. Return to open session for possible discussion and action on executive session item(s).
16. Board member availability for the January 26, 2016 Regular Meeting.
17. Adjourn.

I, the undersigned authority, hereby certify that the above Notice of Meeting of the Board of Directors of the El Paso County Water Control & Improvement District No. 4 is a correct copy of the Notice and that I posted the Notice at the Fabens Post Office and at the District Office Bulletin Board located at 117 E. Main Street, Fabens, Texas 79838, and provided a notice to the El Paso County Clerk for posting in accordance with the Texas Open Meetings Act as required by law.

In this Notice of Open Meeting, the posting of an agenda item as a matter to be discussed in open session is not intended to limit or require discussion of that matter in open session if it is otherwise appropriate to discuss the matter in executive session. If during the discussion of any agenda item, a matter is raised that is appropriate for discussion in executive session the Board may, as permitted by law, adjourn into executive session to deliberate on the matter.

The posting of an agenda item as a matter of law to be discussed in executive session is not intended to limit or require discussion of that matter in executive session. The Board may discuss in open session any matter for which notice has been given in this Notice of Open Meeting, including an agenda item posted for executive session. In no event; however, will the board take action on any agenda item in executive session.

**Mike L. Terrazas, Jr.**  
**El Paso County Water Control & Improvement District #4**  
**General Manager**



# EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4

P.O. BOX 3880  
(915) 764-2212



117 E. MAIN ST.  
FAX (915) 764-4840



FABENS, TX 79838-3880

## SPECIAL MEETING MINUTES Tuesday, December 15, 2015

1. **Call Meeting to Order.**  
President Mario Aguirre called meeting to order at 6:00p.m.

2. **Roll Call & Determination of Quorum.**  
Quorum existed. Meeting proceeded.

		<u>Present</u>	<u>Absent</u>	<u>Comments</u>
Mr. Mario Aguirre	President	X		
Ms. Magda C. Flores	Vice President	X		
Mr. Morgan Laird	Secretary	X		
Mr. Jose Ramirez	Member	X		
Ms. Barbara C. Telas	Member	X		

**District Staff:**

Mr. Mike L. Terrazas, Jr	General Manager
Mr. Martin Madrid	Field Manager
Ms. Lala Garcia	Office Manager
Ms. Patricia Cruz	Administrative Assistant

**Consultants:**

Mr. Horacio Juarez	Consulting Engineer
--------------------	---------------------

**Visitors:**

None

3. **Pledge of Allegiance.**

4. **Take up, consider and take action on meeting agenda.**

Discussion: No discussion.

Motion made by Ms. Flores to approve meeting agenda.

Seconded by Mr. Ramirez.

<u>Vote:</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Other</u>
Mr. M. Aguirre	X			
Ms. M. Flores	X			
Mr. M. Laird	X			
Mr. J. Ramirez	X			
Ms. B. Telas	X			

Motion: Passed

5. **Audience comments: 3-minute limit on speaking time per person.**

No audience comments.

6. **Take up, consider and take action on meeting minutes for November 17, 2015 Special Meeting.**

Discussion: No discussion.

Motion made by Ms. Telas to approve meeting minutes for November 17, 2015 Special Meeting.

Seconded by Ms. Flores.



# EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4

P.O. BOX 3880  
(915) 764-2212



117 E. MAIN ST.  
FAX (915) 764-4840



FABENS, TX 79838-3880

Special Meeting  
December 15, 2015

<u>Vote:</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Other</u>
Mr. M. Aguirre	X			
Ms. M. Flores	X			
Mr. M. Laird	X			
Mr. J. Ramirez	X			
Ms. B. Telas	X			

Motion: Passed.

7. Take up, consider and take action on invoices paid from November 1 – 30, 2015 in the amount of \$141,200.93.

**Discussion:** The accounts payable invoices were reviewed and justified to the Board Members' satisfaction.

**Motion made by Ms. Flores to approve the invoices paid from November 1 – 30, 2015 in the amount of \$141,200.93.**

**Seconded by Ms. Telas.**

<u>Vote:</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Other</u>
Mr. M. Aguirre	X			
Ms. M. Flores	X			
Mr. M. Laird	X			
Mr. J. Ramirez	X			
Ms. B. Telas	X			

Motion: Passed.

8. Presentation of Nano Filtration System by Horacio Juarez CDM Smith.

**Discussion:** Mr. Horacio Juarez, District Engineer introduced Mr. Robert Fouly, Sr. Project Engineer from Albuquerque. Mr. Fouly gave a presentation on the Nano Filtration System. He provided a walk through on the systems treatment process, architectural section, and a view of what the design is going to look like. The progress of the design will be at 30% by the end of January 2016 and the Final Design should be completed by April 2016. Mr. Juarez stated the District must have a full-time RPR when both projects are under construction per USDA-RD requirements and approval.

**No action required for this item.**

9. Take up, consider and take action on adoption of the Willdan Financial Services 2016-2020 Water and Wastewater Rate Plan.

**Discussion:** The Board discussed the District Rate Study conducted by Mr. Dan Jackson from Willdan Financial Services and agreed to approve a 5 year plan that is to be reviewed on a yearly basis.

**Motion made by Ms. Flores to adopt the Willdan Financial Services 2016-2020 Water and Wastewater Rate Plan.**

**Seconded by Mr. Ramirez.**

<u>Vote:</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Other</u>
Mr. M. Aguirre	X			
Ms. M. Flores	X			
Mr. M. Laird	X			
Mr. J. Ramirez	X			
Ms. B. Telas	X			

Motion: Passed



# EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4

P.O. BOX 3880  
(915) 764-2212



117 E. MAIN ST.  
FAX (915) 764-4840



FABENS, TX 79838-3880

Special Meeting  
December 15, 2015

**10. Take up, consider and take action on 2016 Budget.**

**Discussion:** Mr. Terrazas presented the Board with the 2016 Budget. The approach and method used was explained for the projection, including a comparison to the 2015 Budget.

**Motion made by Mr. Ramirez to approve the 2016 Budget.**

**Seconded by Ms. Flores.**

<u>Vote:</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Other</u>
Mr. M. Aguirre	X			
Ms. M. Flores	X			
Mr. M. Laird	X			
Mr. J. Ramirez	X			
Ms. B. Telas	X			

**Motion: Passed**

**11. CDM Smith Update.**

**Discussion:** No discussion.

**No action required for this item.**

**12. General Counsel Update.**

**Discussion:** No discussion.

**No action required for this item.**

**13. General Manager Update.**

**Discussion:**

- The account collection rate for October 2015 was 98% with 29 cut-offs and 3 remain unpaid.
- Arspec installed a sign on front of the building with El Paso County WCID #4.
- On December 10, 2015 Mr. Ortiz and Mr. Apodaca attended The Pump Seminar in El Paso.
- The Tax Collection Services Contract will expire on December 2015. The City of El Paso will extend the current contract on a month to month basis to allow time for the procurement process and for a transition to a new vendor if required.
- The District will be taking the last meter reading for the Cuadrilla customers on Monday, December 21, 2015 and will not have further responsibility for Cuadrilla.
- Mr. Terrazas received a called from Kayla Elsworth from the Texas Legislative Counsel. She wants to have the District codified.
- The District received two deficiencies on the TCEQ Inspection; one was the fence at the 10<sup>th</sup> Street Well and the second was the fence at the Camp St. Well. The option selected was to install an 8 ft. fence, which would not require the barb wire and razor ribbon.
- The District office will be closed Thursday, December 24, 2015 and Friday, December 25, 2015 for Christmas and Thursday, December 31, 2015 and January 01, 2016 for New Years.

Mr. Madrid presented his Monthly Field Reports and all questions pertaining to the field operations were answered to the Boards satisfaction.

**No action required for this item.**

**14. Executive Session.**

**No matters requiring Executive Session.**

**15. Return to open session at \_\_\_\_\_ : \_\_\_\_\_ p.m. for possible discussion and action on Executive Session item(s).**

**Non applicable.**



**EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4**  
 P.O. BOX 3880      117 E. MAIN ST.      FABENS, TX 79838-3880  
 (915) 764-2212      FAX (915) 764-4840

Special Meeting  
 December 15, 2015

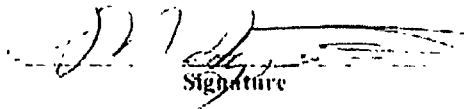
16. **Board Member availability for the January 26, 2016 Regular Meeting.**  
 Discussion: All Board Members' will be available for the January 26, 2016 Regular Meeting.  
 No action required for this item.

17. **Motion to adjourn.**  
 Discussion: No discussion.  
 Motion made by Mr. Ramirez to adjourn.  
 Seconded by Ms. Flores.

<u>Vote:</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Other</u>
Mr. M. Aguirre	X			
Ms. M. Flores	X			
Mr. M. Laird	X			
Mr. J. Ramirez	X			
Ms. B. Telas	X			

Motion: Passed

Meeting Adjourned at 7:45 p.m.

  
 Signature

1-26-16  
 Date Approved



EL PASO COUNTY W.C.I.D. #4  
SPECIAL BOARD MEETING

**IF YOU WISH TO ADDRESS THE BOARD  
PLEASE SIGN IN BELOW  
PLEASE PRINT**

**YOUR COMMENT WILL BE HEARD BUT NO ACTION WILL BE TAKEN AT THIS TIME**

*MEETING DATE : Tuesday, December 15, 2015*

**BY SIGNING BELOW ANY ONE WISHING TO PARTICIPATE WILL AGREE TO THE FOLLOWING:**

1. **BOARD WILL RECOGNIZE EACH SPEAKER AS LISTED ON SIGN-IN SHEET.**
2. **SPEAKERS WILL LIMIT THEIR REMARKS TO 3 MINUTES PER PERSON.**
3. **NO PERSONAL REMARKS OR ATTACKS ARE TO BE MADE.**
4. **ONLY ONE PERSON WILL BE ALLOWED TO SPEAK AT A TIME. NO INTERRUPTIONS ALLOWED.**

	<b>NAME: ( PRINT)</b>	<b>PHYSICAL ADDRESS</b>	<b>ISSUE TO BE ADDRSED</b>
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EL PASO COUNTY W.C.I.D. #4

SPECIAL MEETING

**VISITORS PLEASE SIGN IN**

**PLEASE PRINT**

MEETING DATE: Tuesday, December 15, 2015

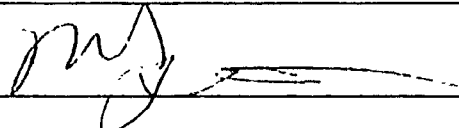
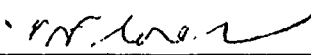

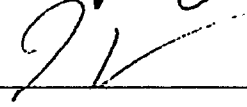
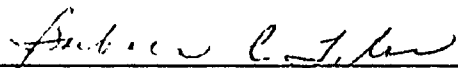
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**EL PASO COUNTY W.C.I.D. #4**

**Special Board Meeting**

**SIGN IN SHEET**

**MEETING DATE: Tuesday, December 15, 2015**

<b>BOARD MEMBERS</b>		
<b>NAME (PLEASE PRINT)</b>		<b>SIGNATURE</b>
Mario Aguirre	EPCWCID #4 Board President	
Magda C. Flores	EPCWCID #4 Vice-President	
Morgan Laird	EPCWCID #4 Secretary	
Jose Ramirez	EPCWCID Board Member	
Barbara C. Telas	EPCWCID Board Member	

**EL PASO COUNTY WCID NO. 4  
WATER/SEWER COST OF SERVICE MODEL**

**Rate Plan Summary**

**SCEN: 2015 11 17 - Alternative 1**

**Water Rates**

**All Customers**

Inside Monthly Adm. Fee (Customer Charge)	\$	2.50	\$	2.50	\$	2.50	\$	2.50	\$	2.50	\$	2.50	\$	2.50	\$	2.50	\$	2.50	\$	2.50	\$	2.50
Outside Monthly Adm. Fee (Customer Charge)		2.50		2.50		2.50		2.50		2.50		2.50		2.50		2.50		2.50		2.50		2.50

**Inside District**

**Inside Residential**

Monthly Minimum Charge		18.32		19.24		20.20		21.21		22.27		23.38		24.32		25.29		26.30		26.83		27.37
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**Volume Charge**

3,001	15,000	1.84	1.93	2.03	2.13	2.24	2.35	2.44	2.54	2.64	2.69	2.74
15,001	34,000	3.18	3.18	3.18	3.18	3.18	3.18	3.18	3.18	3.18	3.18	3.18
34,001	1,000,000	3.88	3.88	3.88	3.88	3.88	3.88	3.88	3.88	3.88	3.88	3.88
1,000,001	Above	5.06	5.06	5.06	5.06	5.06	5.06	5.06	5.06	5.06	5.06	5.06

**Inside Comm Small**

Monthly Minimum Charge		27.67		29.05		30.50		32.03		33.63		35.31		36.72		38.19		39.72		40.51		41.32
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**Volume Charge**

3,001	15,000	2.26	2.37	2.49	2.61	2.74	2.88	3.00	3.12	3.24	3.30	3.37
15,001	34,000	3.88	4.07	4.27	4.48	4.70	4.94	5.14	5.35	5.56	5.67	5.78
34,001	1,000,000	4.76	5.00	5.25	5.51	5.79	6.08	6.32	6.57	6.83	6.97	7.11
1,000,001	Above	6.20	6.51	6.84	7.18	7.54	7.92	8.24	8.57	8.91	9.09	9.27

**Inside Comm Large**

Monthly Minimum Charge		86.07		90.37		94.89		99.63		104.61		109.84		114.23		118.80		123.55		128.02		128.54
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**Volume Charge**

3,001	15,000	2.16	2.27	2.38	2.50	2.63	2.76	2.87	2.98	3.10	3.16	3.22
15,001	34,000	3.71	3.90	4.10	4.31	4.53	4.76	4.95	5.15	5.36	5.47	5.58
34,001	1,000,000	4.54	4.77	5.01	5.26	5.52	5.80	6.03	6.27	6.52	6.65	6.79
1,000,001	Above	5.91	6.21	6.52	6.85	7.19	7.55	7.85	8.16	8.49	8.66	8.83

DIST000132

**EL PASO COUNTY WCID NO. 4  
WATER/SEWER COST OF SERVICE MODEL**

**Rate Plan Summary**

**SCEN: 2015 11 17 -- Alternative 1**

**Outside District**

**Outside Residential**

Monthly Minimum Charge	32.06	33.67	35.35	37.12	38.97	40.92	42.56	44.26	46.03	46.85	47.90
Volume Charge											
3,001 15,000	3.22	3.36	3.55	3.73	3.82	4.11	4.27	4.45	4.62	4.71	4.80
15,001 34,000	5.56	5.85	6.14	6.46	6.77	7.11	7.39	7.68	8.00	8.16	8.31
34,001 1,000,000	6.80	7.12	7.47	7.84	8.23	8.65	9.00	9.36	9.73	9.92	10.12
1,000,001 Above	8.86	9.29	9.77	10.26	10.76	11.31	11.76	12.23	12.72	12.99	13.25

**Outside Comm Small**

Monthly Minimum Charge	48.42	50.84	53.38	56.05	58.85	61.79	64.26	66.83	69.51	70.89	72.31
Volume Charge											
3,001 15,000	3.95	4.15	4.36	4.57	4.80	5.04	5.25	5.46	5.67	5.78	5.90
15,001 34,000	6.80	7.12	7.47	7.84	8.23	8.65	9.00	9.36	9.73	9.92	10.12
34,001 1,000,000	8.33	8.75	9.19	9.64	10.13	10.64	11.06	11.50	11.95	12.20	12.44
1,000,001 Above	10.85	11.39	11.97	12.57	13.20	13.86	14.42	15.00	15.59	15.91	16.22

**Outside Comm Large**

Monthly Minimum Charge	150.63	156.15	166.06	174.35	183.07	192.22	199.90	207.90	216.21	220.54	224.95
Volume Charge											
3,001 15,000	3.78	3.97	4.17	4.38	4.60	4.83	5.02	5.22	5.43	5.53	5.64
15,001 34,000	6.49	6.83	7.18	7.54	7.93	8.33	8.68	9.01	9.36	9.57	9.77
34,001 1,000,000	7.95	8.35	8.77	9.21	9.68	10.15	10.55	10.97	11.41	11.64	11.87
1,000,001 Above	10.34	10.87	11.41	11.99	12.58	13.21	13.74	14.28	14.86	15.16	15.45

**Industrial**

**Outside Non-Potable**

Monthly Minimum Charge	-	-	-	-	-	-	-	-	-	-	-
Volume Charge											
- 15,000	3.51	3.69	3.87	4.06	4.26	4.47	4.65	4.84	5.03	5.13	5.23
15,001 34,000	3.51	3.69	3.87	4.06	4.26	4.47	4.65	4.84	5.03	5.13	5.23
34,001 1,000,000	3.51	3.69	3.87	4.06	4.26	4.47	4.65	4.84	5.03	5.13	5.23
1,000,001 Above	3.51	3.69	3.87	4.06	4.26	4.47	4.65	4.84	5.03	5.13	5.23

**EL PASO COUNTY WCID NO. 4  
WATER/SEWER COST OF SERVICE MODEL**

**Rate Plan Summary**

**SCEN: 2015 11 17 - Alternative 1**

**Scenario 1**

**Scenario 2**

Total Accounts											
Monthly Charge	29.20	29.20	29.20	30.06	30.96	31.91	32.87	33.86	34.86	35.58	36.28
Volume Charge											
3,001 Above	2.01	2.01	2.01	2.07	2.13	2.19	2.26	2.33	2.40	2.45	2.50

**Scenario 3**

Total Accounts											
Monthly Charge	56.99	56.99	56.99	58.70	60.46	62.27	64.14	66.06	68.04	69.40	70.79
Volume Charge											
3,001 Above	2.67	2.67	2.67	2.96	3.05	3.14	3.23	3.33	3.43	3.50	3.57

**Scenario 4**

Total Accounts											
Monthly Charge	402.26	402.26	402.26	414.33	426.76	439.56	452.75	466.33	480.32	489.93	499.73
Volume Charge											
3,001 Above	2.95	2.95	2.95	3.04	3.13	3.22	3.32	3.42	3.52	3.59	3.66

**Scenario 5**

Total Accounts											
Monthly Charge	51.09	51.10	51.10	52.64	54.22	55.84	57.52	59.26	61.04	62.27	63.51
Volume Charge											
3,001 Above	3.52	3.52	3.52	3.62	3.73	3.83	3.96	4.08	4.20	4.29	4.38

**Scenario 6**

Total Accounts											
Monthly Charge	98.74	99.73	99.73	102.73	105.81	108.97	112.25	115.61	119.07	121.45	123.86
Volume Charge											
3,001 Above	5.03	5.02	5.02	5.18	5.34	5.50	5.65	5.83	6.00	6.13	6.25

**Scenario 7**

Total Accounts											
Monthly Charge	703.96	703.96	703.96	725.08	746.83	769.23	792.31	816.06	840.56	857.36	874.53
Volume Charge											
3,001 Above	5.16	5.16	5.16	5.32	5.48	5.64	5.81	5.99	6.16	6.28	6.41

**Scenario 8**

Total Accounts											
Monthly Charge	-	-	-	-	-	-	-	-	-	-	-
Volume Charge											
3,001 Above	-	-	-	-	-	-	-	-	-	-	-

DIST000134



Control Number: 49367



Item Number: 1

Addendum StartPage: 0

4-867

LAW OFFICE OF  
**TEXAS RIOGRANDE LEGAL AID, INC.**

El Paso  
1331 Texas Ave.  
El Paso, TX 79901  
Telephone (915) 585-5100 Toll Free (800) 369-2792  
Fax (915) 544-3789

RECEIVED  
2019 MAR 22 AM 9:56  
PUBLIC UTILITY COMMISSION  
FILING CLERK

March 18, 2019

Public Utility Commission of Texas  
Central Records  
1701 N. Congress Ave.  
P.O. Box 13326  
Austin, TX 78711

Attn: Filing Clerk

RE: Petition to Appeal the Rate Change by El Paso County WCID No. 4 for Out-of-District ratepayers

Attached is a petition signed by 81 out-of-district ratepayers for the El Paso County WCID No. 4 [WCID], more than 10% of the total 219 out-of-district residential ratepayers. The WCID's new rates went into effect on January 1, 2019. We have attached the original and seven copies of the petition for your consideration. The petitioners contest the 5% rate increase and the 74.9% rate difference charged to out-of-district ratepayers.

The WCID implemented a 5% increase in both water and sewer rates beginning January 1, 2019. Notice of this increase is attached as Attachment A. The WCID has not provided any reason for the increase in rates. It has not performed or released any study that indicates the necessity of this rate increase. The last "rate study" was conducted in 2015 by economists.com and forecasted yearly 3-5% cost increases without providing factual basis for the projection. After that study the WCID implemented a 5% yearly rate increase resulting in an overall out-of-district minimum monthly rate increase from \$32.05 in 2015 to \$38.97 in 2019.

**Table 1: 2018-2019 Out-of-District Rate Increase**

	<b>2018 Rate</b>	<b>2019 Rate</b>
	<b>Water</b>	
Min. Monthly Rate	\$37.12	\$38.97
	<b>Sewer</b>	
Min. Monthly Rate	\$52.64	\$54.22

Prior to implementing the 2019 rate increase, the WCID conducted no evaluation as to whether costs were rising as projected and that this increase was necessary to cover those costs. The rate increase is entirely based on a revenue needs forecast from the 2015 study. The petitioners



request the PUC to review the new rates established by the WCID to determine whether they are just and reasonable.

The petitioners also contest the 74.9% rate differential base rate between in-district and out-of-district customers, as well as the differential rates charged for differing levels of usage. The usage rates continue to increase in differential and are double for “extreme usage”. The WCID has provided no factual basis for the significant differences paid by in-district and out-of-district rate payers. The neighborhoods charged out-of-district rates are contiguous to the WCID’s original boundaries (see map in Attachment B), and no new water or sewer lines were constructed to serve the subdivision. The internal infrastructure that serves that neighborhood was built and paid for by the sub-divider – and eventually the residents. The 2015 rate study contained no factual information to indicate a cost difference to the WCID in serving out-of-district and in-district customers. The 74.9% difference in rates charged out-of-district and in-district customers is not just or reasonable, and as set by the WCID are arbitrary and capricious. They seek the Commission’s review of these unsupported and unjust rates.

**Table 2: 2019 Rates for In-District and Out-of-District Customers**

Usage Rate	In-District	Out-of-District
	<b>Water</b>	
Min. Monthly Rate	\$22.27	\$38.97
Base Usage Rate	\$2.24	\$3.92
Peak Usage Rate	\$3.18	\$6.77
Excess Usage Rate	\$3.88	\$8.23
Extreme Usage Rate	\$5.06	\$10.76
	<b>Sewer</b>	
Min. Monthly Rate	\$30.98	\$54.22
Additional Usage Rate	\$2.13	\$3.73

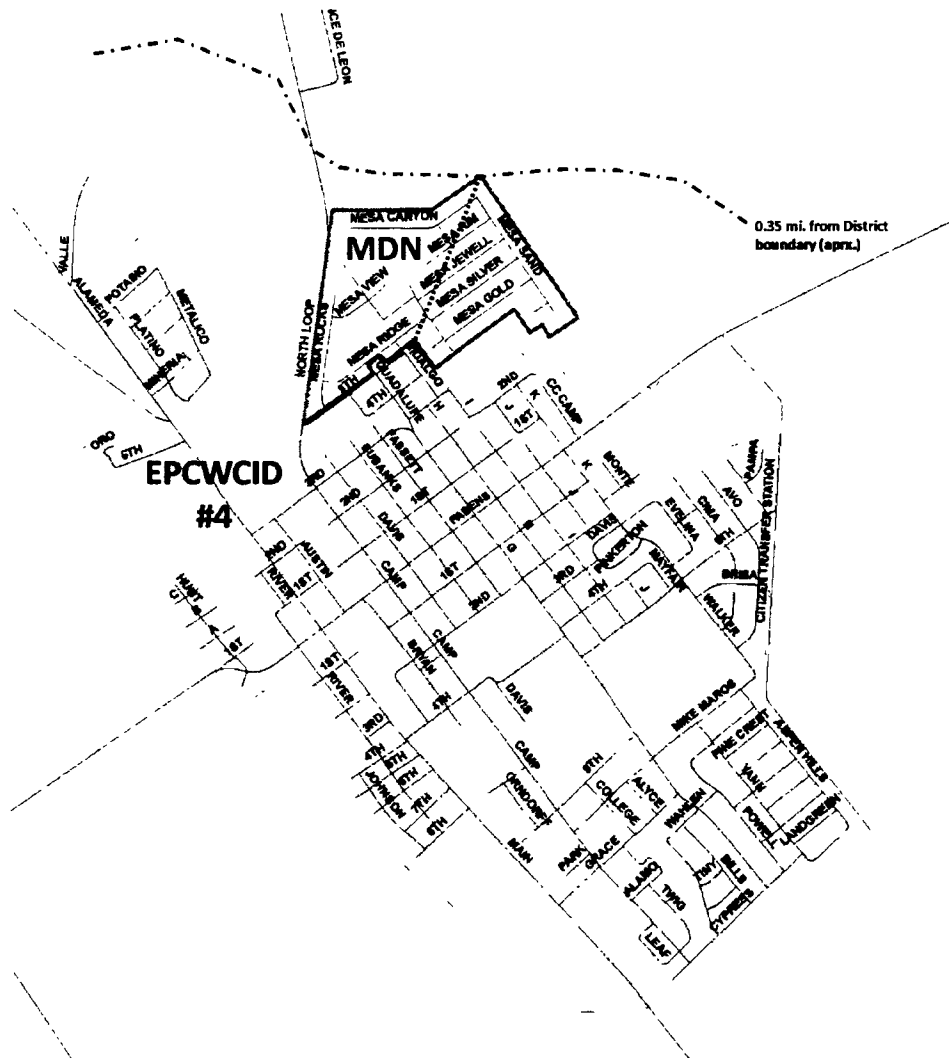
The mailing address of the El Paso Water Control and Improvement District #4 is P.O. Box 3880 Fabens, TX 79838-3880. Their phone number is (915) 764-2212.

Texas RioGrande Legal Aid will act as the out-of-district ratepayers’ representative. Correspondence may be made to:

Christopher Benoit  
 1331 Texas Ave.  
 El Paso, TX 79901  
 cbenoit@trla.org  
 (915) 585-5118

Amy Johnson  
 amy@savagejohnson.com  
 (503) 939-2996

# **EXHIBIT A**



# **EXHIBIT B**

**El Paso County WCID #4  
Water and Wastewater Rate Schedule  
Rates effective: January 01, 2019**

Customer Classification			WATER RATES	
		Usage Block (Gals)	In District	Out of District
<b>Residential</b>				
incl. 3,000 gals	Min Monthly Charge	0-3,000	\$ 22.27	38.97
per 1,000 gals	Base Usage Rate	3,001-15,000	\$ 2.24	3.92
per 1,000 gals	Peak Usage Rate	15,001-34,000	\$ 3.18	6.77
per 1,000 gals	Excess Usage Rate	34,001-1,000,000	\$ 3.88	8.23
per 1,000 gals	Extreme Usage	Over 1,000,000	\$ 5.06	10.76
<b>Residential/Commercial</b>				
incl. 3,000 gals	Min Monthly Charge	0-3,000	\$ 33.83	58.85
per 1,000 gals	Base Usage Rate	3,001-15,000	\$ 2.74	4.80
per 1,000 gals	Peak Usage Rate	15,001-34,000	\$ 4.70	8.23
per 1,000 gals	Excess Usage Rate	34,001-1,000,000	\$ 5.79	10.13
per 1,000 gals	Extreme Usage	Over 1,000,000	\$ 7.64	13.20
<b>Larger User</b>				
incl. 3,000 gals	Min Monthly Charge	0-3,000	\$ 104.81	183.07
per 1,000 gals	Base Usage Rate	3,001-15,000	\$ 2.63	4.60
per 1,000 gals	Peak Usage Rate	15,001-34,000	\$ 4.53	7.93
per 1,000 gals	Excess Usage Rate	34,001-1,000,000	\$ 5.52	9.66
per 1,000 gals	Extreme Usage	Over 1,000,000	\$ 7.19	12.58
<b>Non-Potable</b>				
per 1,000 gals	Water Rate	any quantity	N/A	4.26

Customer Classification			SEWER RATES	
		Usage Block (Gals)	In District	Out of District
<b>Residential</b>				
incl. 3,000 gals	Min. Monthly Charge	0-3,000	\$ 30.96	54.22
per 1,000 gals	Additional Usage Rate	over 3,000	\$ 2.13	3.73
<b>Residential/Commercial</b>				
incl. 3,000 gals	Min. Monthly Charge	0-3,000	\$ 60.46	105.81
per 1,000 gals	Additional Usage Rate	over 3,000	\$ 3.05	5.34
<b>Larger User</b>				
incl. 3,000 gals	Min. Monthly Charge	0-3,000	\$ 426.76	748.83
per 1,000 gals	Additional Usage Rate	over 3,000	\$ 3.13	5.48

	In-District Residential		Out of District Residential	
	Old Rate	New Rate	Old Rate	New Rate
<b>MINIMUM BILL</b>				
0-3000 gallons				
<b>WATER</b>	\$21.21	\$22.27	\$37.12	\$38.97
<b>SEWER</b>	\$30.06	\$30.86	\$52.64	\$54.22
<b>CC</b>	\$2.50	\$2.50	\$2.50	\$2.50
<b>TWC</b>	\$0.26	\$0.27	\$0.45	\$0.47
	<u>\$84.06</u>	<u>\$86.82</u>	<u>\$92.71</u>	<u>\$96.16</u>

EL PASO COUNTY WCID #4 is an equal opportunity provider and employer.

**LAW OFFICE OF  
TEXAS RIOGRANDE LEGAL AID, INC.**

El Paso  
1331 Texas Ave.  
El Paso, TX 79901  
Telephone (915) 585-5100 Toll Free (800) 369-2792  
Fax (915) 544-3789

March 18, 2019

Public Utility Commission of Texas  
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Attn: Filing Clerk

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	<b>Sewer</b>	
Min. Monthly Rate	\$52.64	\$54.22

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**Table 2: 2019 Rates for In-District and Out-of-District Customers**

<b>Usage Rate</b>	<b>In-District</b>	<b>Out-of-District</b>
	<b>Water</b>	
Min. Monthly Rate	\$22.27	\$38.97
Base Usage Rate	\$2.24	\$3.92
Peak Usage Rate	\$3.18	\$6.77
Excess Usage Rate	\$3.88	\$8.23
Extreme Usage Rate	\$5.06	\$10.76
	<b>Sewer</b>	
Min. Monthly Rate	\$30.98	\$54.22
Additional Usage Rate	\$2.13	\$3.73

The mailing address of the El Paso Water Control and Improvement District #4 is P.O. Box 3880 Fabens, TX 79838-3880. Their phone number is (915) 764-2212.

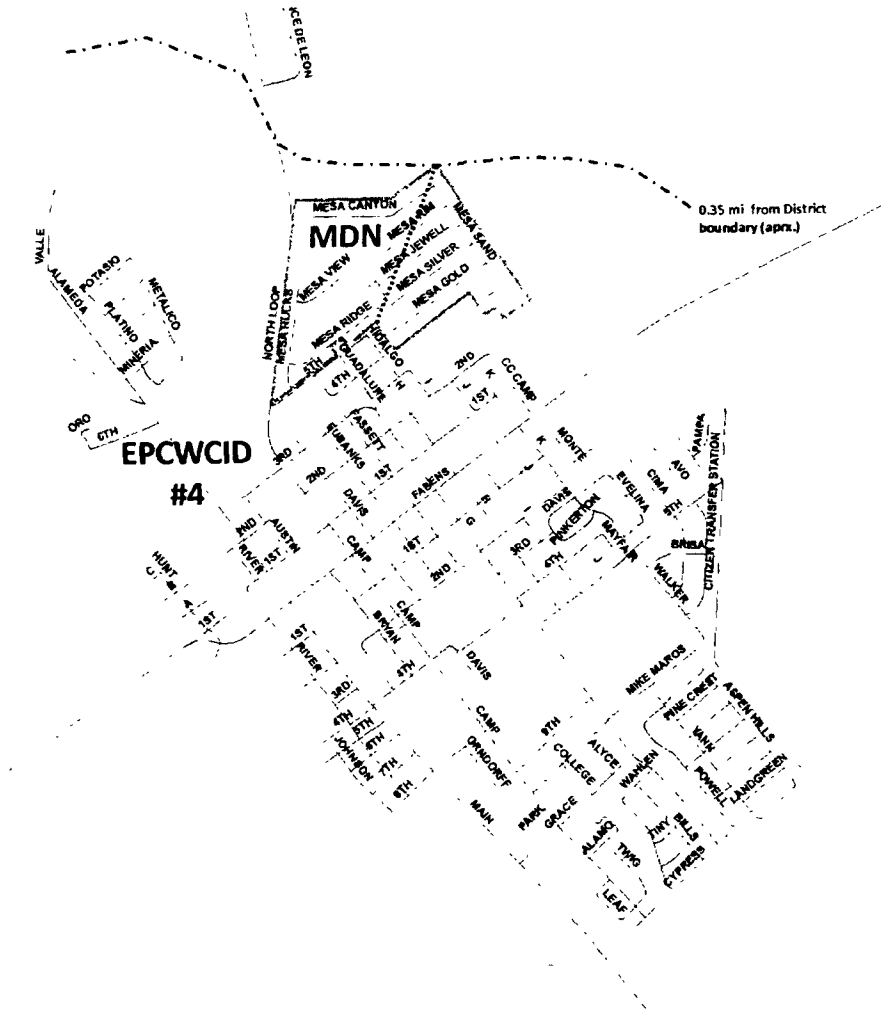
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 (503) 939-2996

# **EXHIBIT A**





# **EXHIBIT B**

**El Paso County WCID #4  
Water and Wastewater Rate Schedule  
Rates effective: January 01, 2019**

Customer Classification			WATER RATES	
		Usage Block (Gals)	In District	Out of District
<b>Residential</b>				
incl. 3,000 gals	Min Monthly Charge	0-3,000	\$ 22.27	38.97
per 1,000 gals	Base Usage Rate	3,001-15,000	\$ 2.24	3.92
per 1,000 gals	Peak Usage Rate	15,001-34,000	\$ 3.18	6.77
per 1,000 gals	Excess Usage Rate	34,001-1,000,000	\$ 3.88	8.23
per 1,000 gals	Extreme Usage	Over 1,000,000	\$ 5.06	10.76
<b>Residential/Commercial</b>				
incl. 3,000 gals	Min Monthly Charge	0-3,000	\$ 33.63	58.85
per 1,000 gals	Base Usage Rate	3,001-15,000	\$ 2.74	4.80
per 1,000 gals	Peak Usage Rate	15,001-34,000	\$ 4.70	8.23
per 1,000 gals	Excess Usage Rate	34,001-1,000,000	\$ 5.79	10.13
per 1,000 gals	Extreme Usage	Over 1,000,000	\$ 7.54	13.20
<b>Larger User</b>				
incl. 3,000 gals	Min Monthly Charge	0-3,000	\$ 104.61	183.07
per 1,000 gals	Base Usage Rate	3,001-15,000	\$ 2.63	4.60
per 1,000 gals	Peak Usage Rate	15,001-34,000	\$ 4.53	7.93
per 1,000 gals	Excess Usage Rate	34,001-1,000,000	\$ 5.52	9.66
per 1,000 gals	Extreme Usage	Over 1,000,000	\$ 7.19	12.58
<b>Non-Potable</b>				
per 1,000 gals	Water Rate	any quantity	N/A	4.26

Customer Classification			SEWER RATES	
		Usage Block (Gals)	In District	Out of District
<b>Residential</b>				
incl. 3,000 gals.	Min. Monthly Charge	0-3,000	\$ 30.98	54.22
per 1,000 gals	Additional Usage Rate	over 3,000	\$ 2.13	3.73
<b>Residential/Commercial</b>				
incl. 3,000 gals.	Min. Monthly Charge	0-3,000	\$ 60.46	105.81
per 1,000 gals	Additional Usage Rate	over 3,000	\$ 3.05	5.34
<b>Larger User</b>				
incl. 3,000 gals.	Min. Monthly Charge	0-3,000	\$ 426.76	746.83
per 1,000 gals	Additional Usage Rate	over 3,000	\$ 3.13	5.48

MINIMUM BILL	In-District Residential		Out of District Residential	
	Old Rate	New Rate	Old Rate	New Rate
0-3000 gallons				
WATER	\$21.21	\$22.27	\$37.12	\$38.97
SEWER	\$30.08	\$30.98	\$52.64	\$54.22
CC	\$2.50	\$2.50	\$2.50	\$2.50
TWC	\$0.26	\$0.27	\$0.45	\$0.47
	<u>\$54.05</u>	<u>\$56.02</u>	<u>\$92.71</u>	<u>\$96.16</u>

EL PASO COUNTY WCID #4 is an equal opportunity provider and employer.

Petition to Appeal Rates Established by the Board of Directors  
El Paso County Water Control & Improvement District No. 4  
 117 E. Main St. / P.O. Box 3880  
 Fabens, Texas 79838 - (915) 764-2212

We, the undersigned out-of-district ratepayers of El Paso Water Control & Improvement District No. 4, hereby appeal the decision of the WCID No. 4 Board of Directors raising out-of-district rates charged to us. The 5% rate increase was effective January 1, 2019, and affected the rates charged for water utility service, sewer utility service, and a "TWC fee." We also challenge the 74.9% rate differential for out-of-district rates charged by District No. 4.

Nearly all of the residential out-of-district ratepayers reside in the Mesa del Norte subdivision. The El Paso Water Control & Improvement District No. 4 is charging unreasonably high out-of-district rates that do not reflect the actual cost of providing service out-of-district. These exorbitant rates are unsupported, unreasonable, and unfair to residents of Mesa del Norte.

The undersigned designate the Consumidores de Agua de Mesa del Norte/Mesa del Norte Water Consumers association as their representative in this matter. Correspondence to the ratepayers' representative may be directed to its legal counsel, Texas RioGrande Legal Aid, ATTN: Alan Dicker, 1331 Texas Ave., El Paso, TX 79901, Phone: (915) 585-5146.

*Nosotros, los usuarios de fuera del distrito de El Paso Water Control & Improvement District No. 4 suscritos a esta petición, por la presente apelamos la decisión de la Mesa de Directores de WCID No. 4 de aumentar las tarifas de fuera del distrito que nos cobra. El aumento de 5% se hizo efectivo el 1 de enero de 2019 y afectó las tarifas sobre la provisión de agua potable, alcantarillado, y una tarifa "TWC." También disputamos la diferencial de 74.9% en tarifas cobradas por WCID No. 4 a los usuarios de fuera del distrito.*

*Casi todos los usuarios residenciales de fuera del distrito residen en la subdivisión Mesa del Norte. El WCID No. 4 ha impuesto tarifas de fuera del distrito injustamente altas, las cuales no reflejan el costo real para proveer servicios fuera del distrito. Estas tarifas excesivas son irrazonables, sin respaldo, e injustas para los residentes de Mesa del Norte.*

*Los abajo firmantes designan a la asociación Consumidores de Agua de Mesa del Norte/Mesa del Norte Water Consumers como su representante en este asunto. Toda correspondencia al representante de los usuarios debe dirigirse a su consejero legal, Texas RioGrande Legal Aid, ATTN: Alan Dicker, 1331 Texas Ave., El Paso, TX 79901, Teléfono: (915) 585-5146.*

Signature Firma	Printed Name Nombre en letra de molde	Date of Birth Fecha de nacimiento	Street Address Dirección física	City or Town of Residence Ciudad o pueblo de residencia TX	County of Residence Condado de residencia	Date Fecha
	Sylvia Perez	08-0-86	<del>80020A</del> 801 MESA RIM	TX	Fabens 79838	2-26-19
	Sylvia Ramirez	5-21-65	819 MESA RIM	TX	79838	2-26-19
	Javier A. Hueramo	5-12-99	16116 mesa Jewell	Fabens	El Paso	2-26-19
	Agustin Cano	2/12/69	16152 mesa rocks	Fabens	79838	2/26/19
	Maria C. Reyes	2/4/66	16163 Mesa Rocks	Fabens	79838	2/26/19
	Misael Burro n	10/27/81	16148 mesa ROCKS	Fabens	79838	2/26/19
	MELISSA I RODRIGUEZ	10-01-88	16143 MESA ROCKS	FABENS	79838	2-26-19

Circulator Elsa Rivera

Petition to Appeal Rates Established by the Board of Directors  
El Paso County Water Control & Improvement District No. 4  
 117 E. Main St. / P.O. Box 3880  
 Fabens, Texas 79838 - (915) 764-2212

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1	<i>E. Ocasio C. Mora</i>	ERASMO C MORA	11.25.50	858 Mesa Gold DR	Fabens, TX.		2.26.19
2	<i>Mansel Becerra</i>	Mansel Becerra A	9/14/59	<sup>793</sup> Mesa RIDGE	Fabens TX	el paso	2/26/19
3	<i>Consuelo Baraza</i>	Consuelo Baraza	4/29/61	16112 Mesa Jewell	Fabens TX	el Paso	2/26/19
4	<i>Lorena Chavez</i>	Lorena Chavez	12/31/67	16159 Mesa Sand	Fabens	El Paso	2/26/19
5	<i>Roselio Tarazona</i>	Roselio Tarazona	12/25/85	16120 Mesa Jewell	Fabens	EL PASO	2/26/19
6	<i>Jesus Ramirez</i>	Jesus Ramirez	8/28/46	16108 Mesa Rock	Fabens	El Paso	2/26/19

Circulator Elsa Rivera

Petition to Appeal Rates Established by the Board of Directors  
El Paso County Water Control & Improvement District No. 4

117 E. Main St. / P.O. Box 3880  
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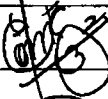
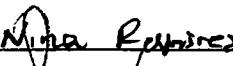
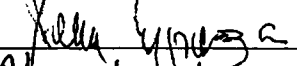
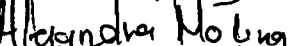
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	Claudia Gallegos	6/22/1995	818 Mesa Gold Dr.	Fabens	El Paso TX	2/26/2019
	AYME MARTINEZ	02/18/79	899 MESA GOLD DR.	FABENS	EL PASO TX.	2/26/19
Claudia Salinas.	Claudia Salinas.	2/24/75.	801 mesa Gold Rd	Fabens	TX	2/26/19
	Nina Ramirez	06/11/90	812 mesa gold Rd	Fabens	TX	2/26/19
	JUAN Esparza	<del>02-27-53</del>	775 mesa view	Fabens	TX	3-3-19
	Alejandra Molina	3/4/91	16132 Mesa Jewell	Fabens	TX	3-5-19

Circulator Elsa Rivera

Petition to Appeal Rates Established by the Board of Directors  
El Paso County Water Control & Improvement District No. 4  
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 Fabens, Texas 79838 - (915) 764-2212

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1 <i>Hermila Esparza</i>	HERMILA ESPARZA	04/14/39	789 MESA RIDGE DR	FABENS TX. 79838	EL PASO	02/26/2019
2 <i>Kimberly Perez</i>	Kimberly Perez	02/21/95	788 Mesa Ridge Dr	Fabens Tx 79838	El Paso	02/27/2019
3 <i>Angel Villegas</i>	Angel Villegas	12/15/97	785 Mesa Ridge Dr	Fabens TX 79838	El Paso	02/27/2019
4 <i>Miriam Magaleno</i>	Miriam Magaleno	7/29/85	777 Mesa Ridge Dr	fabens TX 79838	El Paso	03/21/2019
5 <i>Juan Meza</i>	Juan meza	1/6/63	708 mesa ridges dr	Fabens TX 79838	El Paso	03/02/2019
6 <i>Ramona Navarez</i>	Ramona Navarez	2/23/66	781 mesa Ridge Dr	FABENS TX 79838	El Paso	03/03/19

Circulator HERMILA ESPARZA

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1 Maria J. Meza	Maria J. Meza	11-26-1945	842 Mesa Silver	Fabens	TX.	2-26-19
2 Mario Meza	MARIO MEZA	06-25-48	749 mesa canyon dr.	Fabens	79838	2-26-19
3 Araceli Gomez	Araceli Gomez	06-20-63	801 Mesa Silver Dr	Fabens	79838	2-26-19
4 Maria M. Rodriguez	MARIA M. RODRIGUEZ	08-21-66	898 mesa Jewell st	Fabens	79838	2-26-19
5 Elsa Rivera	Elsa Rivera	12-25-72	899 mesa silver	Fabens	79838 TX	2-26-19
6 Abigail Meza	Abigail Meza	11-06-97	782 mesa Jewell st	Fabens	79838	3-6-19

Circulator Elsa Rivera



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	Luis R Hernandez	08-25-55	870 Mesa Island C.T.	Fabens TX	El Paso	3/2/19
	Andy Galvan	11-3-80	896 mesa island ct	Fabens T.x	EL PASO	3/2/19
	Juan Alvarez	7-30-72	886 Mesa Island	Fabens TX	El Paso	3-2-19
	Cruz Sigala	5/3/75	878 Mesa Island Ct.	Fabens TX	El Paso	3/2/19
	ROGER RIVERA	7-23-85	882 MESA ISLAND CT	FABENS TX	EL PASO	3-2-19
	MARCELA JURADO	10-16-50	892 MESA ISLAND	FABENS TX	EL PASO	3-2-19

Circulator

Page \_\_\_ of \_\_\_

ALBERTO MEDINA 4-20-57 161 89 MESA ISLAND FABENS TX EL PASO 3-2-19

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	Mauro Carrera	8/16/57	16131 mesa Rocks	Fabens	Paso TX	8/4/19
	Isidoro Martinez	04/02/61	16116 Mesa Rocks	Fabens	Paso TX	3/4/19
	Jesús Ramirez	3/28/60	16708 mesa Rocks	Fabens	Paso TX	3/4/19
	Alma R Saucedo	04-03-61	16123 mesa Rocks	Fabens	Paso TX	03/04/19
	Jesús E. Cano	05/28/43	16152 Mesa Rocks	Fabens	Paso	07/04/19
	Hugo Cruz	04/01/76	894 mesa silver	Fabens	Tx.	03/6/19

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1 <del>Agustin Cano</del>	<del>Agustin Cano Jr</del>	<del>02/12/69</del>	<del>16162 mesa rocks</del>	<del>Fabens</del>	<del>Paso TX</del>	<del>04/3/2019</del>
2 <del>Guadalupe</del>	GUADALUPE RAMERO	1/20/78	16147 MESA ROCKS	FABENS	EL PASO	04/3/2019
3 <del>Melissa</del>	MELISSA I. RODRIGUEZ	10-07-88	16143 MESA ROCKS	FABENS	EL PASO TX	04/3/2019
4 Misael Barron	Misael Barron Galindo	10-27-1981	16148 mesa Rocks	Fabens	EL PASO TX	04/3/2019
5 Brenda Holguin	Brenda Holguin	09/16/88	16150 Mesa Rocks	Fabens	EL PASO TX	04/3/2019
6 m	HENRY GARCIA	03/13/83	16135 MESA ROCKS	FABENS	EL PASO TX	04/3/2019

Circulator Maria Cano

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1 B. Salazar	Brenda Salazar	08/09/92	10124 mesa Jewell Dr	Fabens	TX	3-5-19 79838
2 Marylou Quiñonez	Marylou Quiñonez	7-5-74	16105 Mesa Jewell Dr.	Fabens	TX	3/8/19 79838
3 Laura Hernandez	Laura Hernandez	08/09/1990	788 mesa View Dr.	Fabens.	TX	3/5/19 79838
4 Alicia Chavez	Alicia Chávez	02/11/1942	784 Mesa View Dr.	fabens	TX	03/05/2019
5 Zulema Dorzal	Zulema Dorzal	11/19-80	765 mesa canyon Dr	Fabens	TX	3/6-2/9
6 Elizabeth Nuens	Eliza del Nuens	08-22-84	757 mesa canyon Dr	Faben	TX	3-16-2/9

Circulator Elsa Rivera

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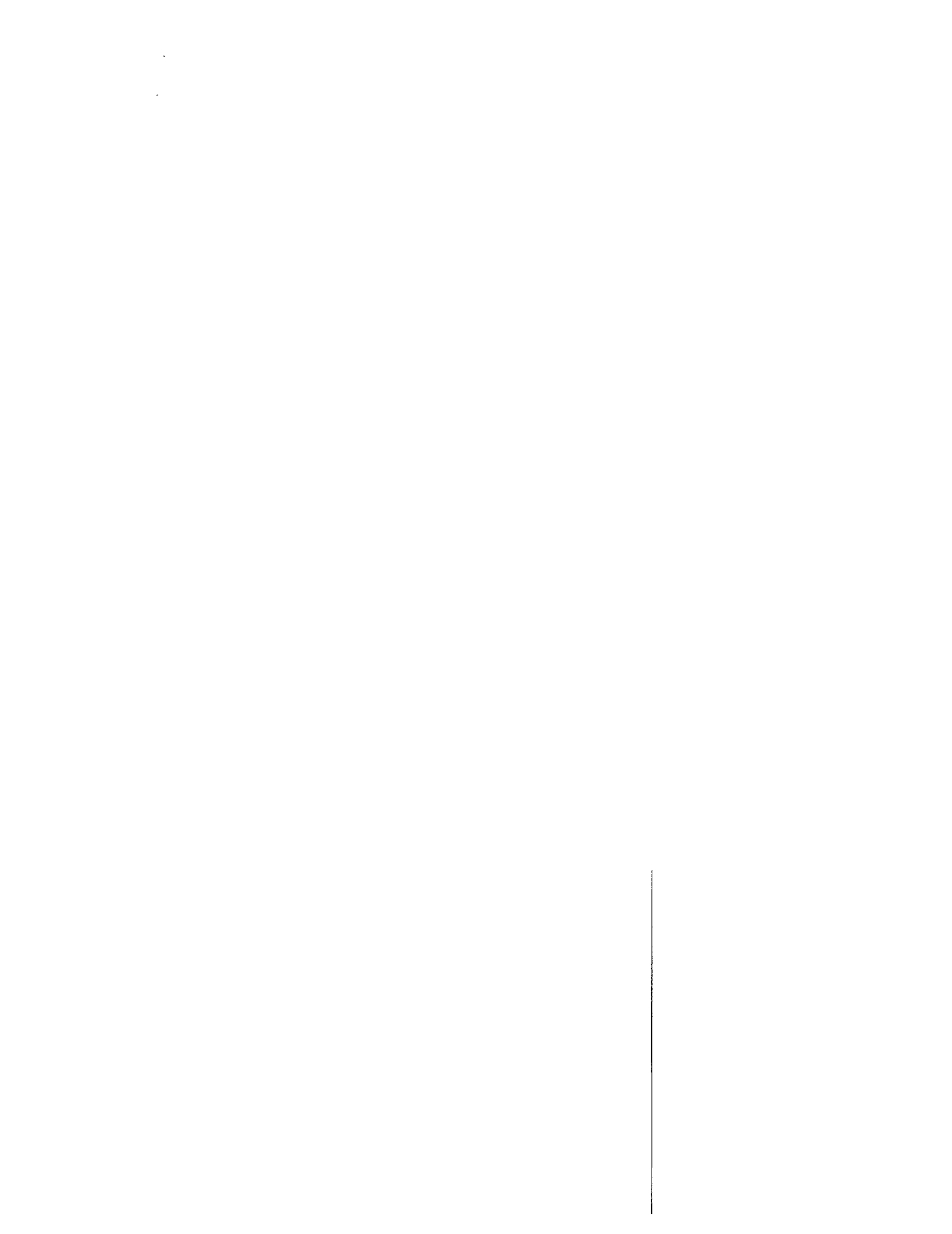
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1 	Monica Garcia	6-5-1968	885 mesa gold drive	Fabens	El Paso	3-5-2019
2 	MARIA I. PEDROZA	2-5-68	872 MESA GOLD DR.	FABENS	EL PASO	3-5-19
3 	Jaime Aleman	61-01-55	873 MESA GOLD DR.	FABENS	EL PASO	3-5-19
4 	ERIC BARRAGAN	03-20-90	889 Mesa Gold DR	Fabens	El Paso	3-6-19
5 	Diana Sainzano	02-26-84	877 Mesa Gold	Fabens	El Paso	3-6-19
6 	ERIC LOPEZ	69/29/1986	801 Mesa Jewell Dr.	Fabens	EL PASO	3-6-19

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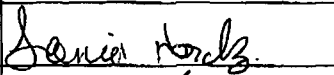

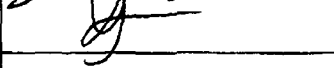
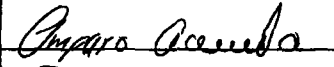
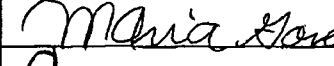
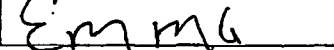
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2 	Guadalupe Mtz	01/05/81	815 Mesa Jewell	Fabens	El Paso TX	3/6/19
3 	Iliana Martinez	04/09/89	701 mesa Canyon	Fabens	El Paso TX	3/6/19
4 	Amparo Acevedo	03/12/59	834 Mesa Jewell	Fabens	El Paso TX	3/6/19
5 	Maria Garcia	05/03/47	899 mesa CANYON Dr.	Fabens	El Paso TX	3/6/19
6 	EMA Garcia	06/04/69	801 Mesa CANYON Dr.	Fabens	El Paso TX	3/06/19

Circulator Elsa Rivera

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1	Jose Esquivel	Jose Esquivel	6-8-65	910 mesa Jewell	Fabens	el Paso	3-6-19
2	Rosa	Rosa Bozquez	09/05/92	848 mesa rim	Fabens	el Paso	3/6/19
3	Arturo Loya	Arturo Loya	3/15/55	861 Mesa Rim.	Fabens	el Paso	3/6/19
4	Maria del Carmen Reyes	Maria del Carmen Reyes	10-25-63	794 Mesa Jewell	Fabens	El Paso	3-6-19
5	Gabriela L. Keith	Gabriela L. Keith	12/12/1969	790 Mesa Jewell	Fabens	El Paso	3-6-19
6	Victor T. Ferraz	Victor T. Ferraz	3/26/52	893 Mesa Silver.	Fabens	El Paso	3/6/19

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	Imelda Garcia	01/29/1986	808 mesa Canyon Dr.	Fabens TX 79838	El Paso	03/04/2019
	Janet E. Sanchez	09/16/1987	779 Mesa Canyon Dr	Fabens TX 79838	El Paso	03/06/2019
	Esteban Rodriguez	11/07/1977	772 Mesa Canyon Dr	Fabens TX 79838	El Paso	03/06/2019
	Israel Marquez	06/06/83	824 mesa Canyon Dr.	Fabens 79838 Tx.	El Paso	03/06/2019
	Rebecca Lopez	11/08/82	808 Mesa Rim Drive	Fabens TX 79838	El Paso	03/06/19
	Claudio Favela	6/30/87	727 Mesa cave	Fabens tx 79838	El Paso	03/07/19

Circulator HERMILA ESPARZA

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1 Hilda Aguirre	Hilda Aguirre	11-24-82	836 mesa gold	Fabens	El Paso	3/6/19
2 Anadeli Mairena	Araseli Mairena	04-18-80	830 Mesa Gold	Fabens	El Paso	3-6-19
3 Norma Galván	Norma Galván	6/14/84	805 mesa gold	Fabens	El Paso	3/6/19
4 Manuel Sanchez	Manuel Sanchez	9-8-91	811 Mesa Gold	Fabens	El Paso	3-6-19
5 Oscar Escobar	Oscar Escobar	12-2-74	823 Mesa silver	Fabens	El Paso	3-7-19
6 Armando Salazar	Armando Salazar	3-29-64	772 Meza ridge	Fab	EL P	3-7-19

Circulator Eka Rivera

2017 WL 697213 (Tex.P.U.C.)

CITY OF HOWARDWICK RATEPAYERS' APPEAL OF THE DECISION OF THE RED RIVER AUTHORITY OF TEXAS' DECISION AFFECTING WATER AND SEWER RATES

Docket No. 46701

Texas Public Utility Commission

February 17, 2017

**ORDER NO. 4 DISMISSING PROCEEDING**

BY THE COMMISSION: Goodson, Administrative Law Judge.

\*1 This Order dismisses the December 28, 2016 petition by residents of the City of Howardwick appealing the decision of the Red River Authority of Texas to increase retail water and sewer rates effective October 1, 2016. The deadline to appeal the rate increases was December 30, 2016.<sup>1</sup> Additionally, to perfect an appeal, the petition must have been signed by the lessor of 10,000 or 10 percent of those ratepayers whose rates were changed and who are eligible to appeal.<sup>2</sup>

Red River is a district for purposes of TWC § 13.043(b)(4),<sup>3</sup> and pursuant to an ordinance adopted by Howardwick, is franchised to provide retail water service within the city.<sup>4</sup> Therefore, residents of Howardwick were affected by Red River's retail water rate increase and are eligible to appeal the increase in Red River's retail water rates. However, Red River does not provide retail sewer service within Howardwick; and none of the signatories of this petition are Red River's retail sewer customers.<sup>5</sup> Therefore, the signatory residents of Howardwick have not had their retail sewer rates changed and are not eligible to appeal Red River's retail sewer rate change.

In this case, Red River raised its retail water rates district wide;<sup>6</sup> therefore, all of Red River's retail water customers experienced a rate change and are eligible to appeal, not just citizens of Howardwick. Red River serves 3,922 ratepayers with active water connections, and therefore at least 393 signatures of affected and eligible retail water customers were needed to perfect an appeal of Red River's water rate increase.<sup>7</sup>

The petition filed by residents of Howardwick includes the signatures of approximately 136 persons,<sup>8</sup> some of which Red River disputes.<sup>9</sup> The residents of Howardwick failed to meet the 10 percent requirement within the 90-day deadline, as required under TWC § 13.043(b).<sup>10</sup>

\*2 For this reason, Commission Staff recommended that this petition should be found administratively incomplete and dismissed for lack of jurisdiction.<sup>11</sup> Red River requested dismissal for the same reason.<sup>12</sup> The residents of Howardwick did not respond to the motions to dismiss.

For the reasons discussed above, this petition is deemed deficient, and it is therefore dismissed for lack of jurisdiction.

**Signed at Austin, Texas the 17<sup>th</sup> day of February 2017.**

Footnotes

<sup>1</sup> Tex. Water Code Ann. § 13.043(c) (West 2016).

<sup>2</sup> *Id.*

<sup>3</sup> Red River Authority of Texas' Motion to Dismiss for Lack of Jurisdiction at 1 (Jan. 30, 2017) (Red River).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3.

**CITY OF HOWARDWICK RATEPAYERS APPEAL OF THE..., 2017 WL 697213 (2017)**

6 *Id.*

7 Commission Staff's Recommendation on Administrative Completeness at 2 (Jan. 30, 2017)(Staff).

8 *Id.*

9 Red River at 2.

10 Staff at 2.

11 Red River at 2.

12 *Id.* at 3 and 5.

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2015 WL 5920987 (Tex.P.U.C.)

RATEPAYERS' APPEAL OF THE DECISION BY THE CITY OF FRITCH TO CHANGE WATER RATES (37908-A)

PUC Docket No. 43086  
SOAH Docket No. 473-15-0680.WS

Texas Public Utility Commission

October 8, 2015

**ORDER**

Before Nelson, Chairman, Anderson, Jr., and Marquez, Commissioners.

BY THE COMMISSION:

\*1 This Order addresses the ratepayers' appeal of the decision by the city of Fritch to increase water rates. The ratepayers residing outside the corporate limits of the city of Fritch sought to appeal the rate increase to the Commission as permitted by Texas Water Code (TWC) § 13.043(b).<sup>1</sup>

An evidentiary hearing on the issue of jurisdiction was held on May 19, 2015 at the State Office of Administrative Hearings (SOAH). The scope of the hearing was limited to whether petitioners had submitted the appropriate number of signatures to protest rates, as determined under TWC § 13.043(c). On June 15, 2015, the SOAH administrative law judge (ALJ) ruled that the Commission lacked jurisdiction in this case. A proposal for decision was issued on August 11, 2015, also holding that the Commission lacks jurisdiction to hear this case.

The Commission agrees with the proposal for decision's finding that the Commission lacks jurisdiction in this case. The Commission also agrees with the ALJ's finding that there was only one rate change at issue, with an effective date of January 1, 2014, and that all petitions, protest letters and motions to intervene should be counted. However, the Commission finds that the ALJ erred in including petitions filed more than 90 days after the effective day of the rate change (*i.e.*, January 1, 2014) in determining the number of signatures. The plain language of TWC § 13.043(c) dictates that an appeal must be initiated by filing a petition with the Commission "within 90 days after the effective day of the rate change." The Commission has limited latitude to interpret such unambiguous statutory language. In accordance with this decision, the Commission modifies conclusion of law 7.

In addition, the Commission deletes finding of fact 19 and conclusion of law 3, as neither are necessary to the outcome of this case. Finally, the Commission modifies finding of fact 21 to state that the city had 1,143 customers residing outside the corporate limits as of October 1, 2014.

Other than as discussed above, the Commission adopts the proposal for decision, including findings of fact and conclusions of law, including the SOAH ALJ's conclusion that petitioners failed to gather the requisite 10% of signatures, and that therefore the Commission lacks jurisdiction to hear this appeal.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

1. The city of Fritch, Texas is a municipal corporation home-rule city operating under the Texas Constitution and Texas Local Government Code §§ 9.001-.008.

\*2 2. Fritch Municipal Water Supply is a municipal water utility wholly owned by Fritch.

3. At its regular meeting of December 17, 2013, the Fritch City Council adopted a rate ordinance that increased water rates charged to ratepayers, including ratepayers that lived outside the city limits of Fritch (collectively, petitioners). The rate

increase of \$12 for each water meter was scheduled to take effect in January 2014.

4. Fritch did not provide notice of this rate increase to its ratepayers living outside the city limits (environs ratepayers).

5. On or around March 1, 2014, petitioners began circulating a petition to appeal the Fritch's rates.

6. On May 5, 2014, the Texas Commission on Environmental Quality (TCEQ) received the petition to review Fritch's rates, including 78 signatures of environs ratepayers.

7. On July 21, 2014, the TCEQ notified Fritch that ratepayers outside of its corporate limits had not been given notice of a water rate increase as required by 30 Texas Administrative Code (TAC) § 291.22(b).

8. On September 1, 2014, the case was transferred to the Commission.

9. In September 2014, Fritch sent notice to its environs ratepayers of a \$12 increase in rates per 10,000 gallons, with an effective date of October 1, 2014.

10. The September 2014 notice of the rate increase incorrectly notified environs ratepayers that the proper method for appealing the increase was through protest letters sent to the TCEQ.

11. On November 3, 2014, the Commission administrative law judge (ALJ) ordered Fritch to send corrected notice to its environs ratepayers that this was the same rate increase as the increase in January 2014. The ALJ also directed Fritch to inform the ratepayers that the correct form of appeal is to file a petition with the Commission before February 12, 2015.

12. On November 13, 2014, Fritch filed a motion to dismiss, citing a lack of jurisdiction, arguing that the Commission had received an insufficient number of signatures on comments, protests, and petitions of environs customers.

13. On November 21, 2014, the Commission ALJ denied the City's motion to dismiss.

14. On February 4, 2015, the Commission referred this matter to the State Office of Administrative Hearings (SOAH).

15. On March 10, 2015, the Commission issued its Preliminary Order.

16. On March 10, 2015, Fritch filed its second motion to dismiss.

17. On May 19, 2015, SOAH ALJ Lilo D. Pomerleau convened a limited hearing to address the jurisdictional issues raised by Fritch.

18. The rate change effective January 1, 2014, and the rate change effective October 1, 2014, were the same change in water rates, an increase of \$12 per month.

19. DELETED.

20. Fritch had 1,276 environs ratepayers on January 1, 2014, when the City implemented the \$12 rate increase.

21. On October 1, 2014, Fritch had 1,143 environs ratepayers.

22. Because there was one rate increase, which was first effective January 1, 2014, and because the City gave different and confusing notices of the same increase, it is appropriate to use the number of the City's environs customers on January 1, 2014, to determine if the rate protest meets the requirements of TWC § 13.043(c).

\*3 23. Ten percent of 1,276 ratepayers is 128.

24. Commission Staff reviewed all petitions, motions to intervene, and protests filed with the Commission to determine

whether there was a sufficient number of ratepayers' signatures.

25. The number of signatures on the different petitions, motions to intervene, and protests should be added together to determine whether the 10% threshold was met because both rate changes were the same change in rates and should be considered one and the same.

26. One hundred and four eligible environs ratepayers filed a protest of Fritch's rate increase.

## II. Conclusions of Law

1. Subject matter jurisdiction over water and wastewater rate cases was vested in the TCEQ until September 1, 2014, when such jurisdiction was transferred to the Commission. Act of May 13, 2013, 83rd Leg., R.S., ch. 170 (HB 1600), § 2.96, 2013 Tex. Gen. Laws 725, 730; Act of May 13, 2013, 83rd Leg., R.S., ch. 171 (SB 567), § 96, 2013 Tex. Gen. Laws 772.

2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law. TWC § 13.041; Tex. Gov't Code ch. 2003.

3. DELETED.

4. Ratepayers of a municipally-owned utility residing outside the corporate limits of that municipality may appeal a decision affecting their water rates to the utility commission. TWC § 13.043(b).

5. An appeal under TWC § 13.043(b) must be initiated by filing a petition for review with the utility commission within 90 days after the effective day of the rate change, and the petition must be signed by the lesser of 10,000 or 10% of those ratepayers whose rates have been changed and who are eligible to appeal under Subsection (b). TWC § 13.043(c).

6. All filed protests, complaints, and motions in this case should be considered properly signed petitions for review as Fritch did not provide adequate notice of the rate increase and proper method of appeal. See TWC § 13.043(i).

7. Petitioners failed to meet the requirements to appeal under TWC § 13.043(c) because although they are eligible to appeal as ratepayers who reside outside the corporate limits of a municipally-owned utility, petitioners failed to gather the requisite 10% of signatures required for an appeal under Subsection (b) within 90 days of the effective day of the rate change. TWC § 13.043(b), (c).

## III. Ordering Paragraphs

In accordance with the above findings of fact and conclusions of law, the Commission issues the following order:

\*4 1. The petition of the city of Fritch utility customers residing outside the city's corporate limits to seek a review of the decision to increase water rates is denied.

2. All other motions, requests for entry of specific findings of fact and conclusions of law, and other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 8<sup>th</sup> day of October 2015.

### Footnotes

<sup>1</sup> Tex. Water Code Ann. § 13.043(b) (West 2008 & Supp. 2014) (TWC).

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