

Control Number: 49367



Item Number: 80

Addendum StartPage: 0

**PUC DOCKET NO. 49367  
SOAH DOCKET NO. 473-19-5831.WS**

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

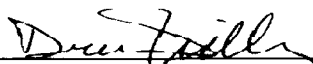
**STATUS REPORT REGARDING SETTLEMENT**

El Paso Water Control and Improvement District No. 4 (“District”), the Mesa del Norte Ratepayers (“Ratepayers”) and Commission Staff (“Staff”) file this Status Report Regarding Settlement.

On November 12, 2019, the parties to this proceeding participated in a mediation led by the mediators from the State Office of Administrative Hearings. At the conclusion of and as a result of that mediation, the District and Ratepayers reached a Settlement Agreement intended to fully resolve this dispute.<sup>1</sup> The Settlement Agreement has already been executed by legal counsel for the District and legal counsel for the Ratepayers. The Settlement Agreement still needs to be approved by the Board of Directors of the District (undersigned counsel for the District expects such approval by no later than November 28, 2019), ratified by the Mesa del Norte Ratepayers’ organization, and fully executed by both the District and the Ratepayers.

Staff separately states that it has conferred with the parties and has learned that they have entered into a settlement agreement. Staff is unopposed to the settlement, but was not a participant in the final settlement agreement.

Respectfully submitted,

By:   
Andrew S. “Drew” Miller  
State Bar No. 00786857

<sup>1</sup> See Settlement Agreement and Exhibit A to Settlement Agreement (Addendum to Interlocal Agreement) (copy attached).

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

By: /s/ Jennifer N. Richards (by permission)  
Jennifer N. Richards  
State Bar No. 24107975  
TEXAS RIO GRANDE LEGAL AID, INC.  
1331 Texas Ave.  
El Paso, Texas 79901  
915-585-5100  
915-544-3789 (fax)  
[JRichards@trla.org](mailto:JRichards@trla.org)

ATTORNEYS FOR MESA DEL NORTE  
RATEPAYERS

By: /s/ Creighton R. McMurray (by permission)  
Creighton R. McMurray  
State Bar No. 24109536  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7275  
(512) 936-7268 (fax)  
[Creighton.mcmurray@puc.texas.gov](mailto:Creighton.mcmurray@puc.texas.gov)

ATTORNEYS FOR COMMISSION STAFF

**CERTIFICATE OF SERVICE**

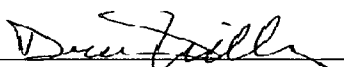
I hereby certify that I have served or will serve a true and correct copy of the foregoing document (including all attachments) via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail/Return-Receipt Requested to counsel for all parties on this 14th day of November, 2019, including:

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

Creighton R. McMurray  
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Amy Johnson  
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\_\_\_\_\_  
Andrew S. "Drew" Miller

# **Tab A**

**PUC DOCKET NO. 49367**  
**SOAH DOCKET NO. 473-19-5831.WS**

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

**SETTLEMENT AGREEMENT**

This document memorializes the settlement between the Mesa del Norte Ratepayers (“Ratepayers”) and the El Paso County Water Control and Improvement District No. 4 (“District”) of an appeal of out-of-district rates charged by the District. The parties agree that they have voluntarily come to this agreement and that this document and the attached Exhibit A contains all agreed-to terms.

1. Effective January 1, 2020, the rate differential between Ratepayers and in-district customers (“rate differential”) will be 1.4.
2. This rate differential of 1.4 will remain in effect for four years from January 1, 2020, or until the date the Ratepayers are fully served with water and wastewater by Lower Valley Water District, whichever is earlier.
3. No rate increases for Ratepayers will be made based on the 2015 Willdan rate study, including any annual 5% rate increase.
4. By January 1, 2020, the District will provide a \$160 credit to each of the Ratepayers’ accounts.
5. Contemporaneously with the execution of this Agreement, the District will execute an addendum to the November 2019 Interlocal Agreement between the District and the Lower Valley Water District with the language attached to this document as Exhibit A. The

Addendum to the Interlocal Agreement will be executed by the District by November 28, 2019. The parties understand that this Addendum will be subject to agreement by the Lower Valley Water District

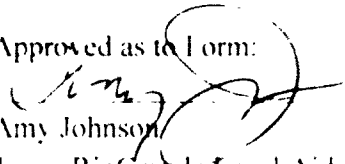
6. Ratepayers will withdraw their petition within five days of the full execution of both this Agreement and the Addendum to Interlocal Agreement.

[THIS SPACE INTENTIONALLY LEFT BLANK - SIGNATURES ON FOLLOWING PAGES]

Elsa Rivera for MDN Ratepayers

Date:

Approved as to Form:

  
Amy Johnson

Texas RioGrande Legal Aid  
Counsel for MDN Residents

Date: 11-12-15



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

Dated: \_\_\_\_\_

Magda C. Flores

President, Board of Directors

El Paso County Water Control & Improvement District No. 4

Attest: \_\_\_\_\_

Thelma Quinones

Secretary, Board of Directors

El Paso County Water Control & Improvement District No. 4

Approved as to Form:



Andrew S. "Drew" Miller

General Counsel

El Paso County Water Control & Improvement District No. 4

**Tab B**

THE STATE OF TEXAS     §    ADDENDUM TO INTERLOCAL AGREEMENT BETWEEN  
                                  §    THE LOWER VALLEY WATER DISTRICT AND THE EL  
COUNTY OF EL PASO     §    PASO COUNTY WATER CONTROL AND  
                                  §    IMPROVEMENT DISTRICT NO. 4 RELATING TO THE  
                                  §    PROVISION OF WATER AND WASTEWATER SERVICES  
                                  §    TO THE MESA DEL NORTE SUBDIVISION  
                                  §

This addendum to the November 2019 Interlocal Agreement (“Agreement”) is entered into by and between the Lower Valley Water District (“LVWD”) and the El Paso County Water Control and Improvement District No. 4 (the “Fabens District”).

**WHEREAS** LVWD and the Fabens District agreed to a November 2019 Interlocal Agreement in which LVWD agreed to pay \$50 multiplied by the number of active water connections within the Mesa del Norte subdivision per month to Fabens in exchange for Fabens posting a \$50 credit to each of those active accounts pursuant to the terms of the Agreement, and

**WHEREAS** the residents of Mesa del Norte subdivision (MDN Residents) pay taxes to LVWD and out-of-district rates for water and wastewater to Fabens District which are higher than in-district rates and have been higher since 2011

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, and for other good and valuable consideration, and intending to be bound hereby, LVWD and the Fabens District agree as follows:

1.1 MDN Residents shall continue to pay out-of-district rates to the Fabens District for the delivery of water and wastewater, until such time as LVWD can assume service

1.2 MDN Residents shall continue to pay taxes to LVWD during the time that the Fabens District provides water and wastewater services to MDN Residents.

1.3 MDN Residents shall have the legal right to receive a monthly credit to their water utility bills as described in Sections 2.1-2.4 of the Agreement. Sections 3.7 and 3.8 of the Agreement do not bar the MDN Residents’ legal right to bring an enforcement action to receive these credits.

1.4 MDN Residents shall have the legal right to demand that LVWD pay all amounts due to Fabens District as described in Section 1.2 of the Agreement. Sections 3.7 and 3.8 of the Agreement do not bar the MDN Residents’ legal right to bring an enforcement action to demand that LVWD pay the payments due to Fabens District

AGREED TO AS FOLLOWS:

LOWER VALLEY WATER DISTRICT

By: \_\_\_\_\_  
Rosalinda Vigil  
President, Board of Directors  
Lower Valley Water District

Dated: \_\_\_\_ \_\_

Attest: \_\_\_\_\_  
Henry Trujillo  
Secretary, Board of Directors  
Lower Valley Water District

Approved as to Form:

Steven J. Blanco  
General Counsel  
Lower Valley Water District

EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4

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

Dated: \_\_\_\_\_

Magda C. Flores  
President, Board of Directors  
El Paso County Water Control & Improvement District No. 4

Attest: \_\_\_\_\_

Thelma Quinones  
Secretary, Board of Directors  
El Paso County Water Control & Improvement District No. 4

APPROVED AS TO FORM:



ANDREW S. "DREW" MILLER  
GENERAL COUNSEL  
EL PASO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 4