



Control Number: 49367



Item Number: 81

Addendum StartPage: 0

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PUBLIC UTILITY COMMISSION
FILING CLERK

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	§	

RATEPAYERS' UNOPPOSED MOTION TO WITHDRAW

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

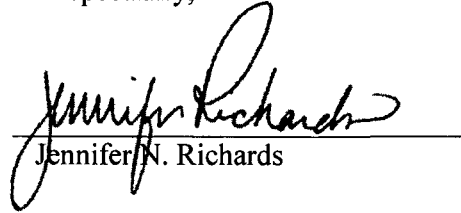
On November 12, 2019 the parties to these proceedings participated in mediation led by an administrative law judge of the State Office of Administrative Hearings. As a result of those efforts, out-of-district ratepayers of Mesa del Norte ("Ratepayers") and the El Paso County Water Control and Improvement District No. 4 ("District") reached a Settlement Agreement to resolve the issues in this appeal. The Public Utility Commission Staff ("Staff") is unopposed to the agreement but was not a final participant.

The District filed a settlement status report in this docket on November 14, 2019. Attached to that report are the terms of the settlement agreement reached on November 12, 2019, agreed to in form by the attorneys for Ratepayers and the District. The Ratepayers' Representative executed the final agreement on November 14, 2019. The District's Board executed the final agreement on November 19, 2019. (Attachment A). The District's Board also executed an addendum to a November 2019 interlocal with the Lower Valley Water District that identifies Ratepayers as third-party beneficiaries to that interlocal with the authority to enforce the terms of that agreement. (Attachment B).

Ratepayers therefore submit this motion to withdraw their appeal of changes to the District's water and wastewater rates effective January 1, 2019. Ratepayers have consulted with

the parties to these proceedings and none are opposed. Ratepayers ask that its motion to withdraw the appeal be granted and these proceedings be dismissed.

Respectfully,



Jennifer N. Richards

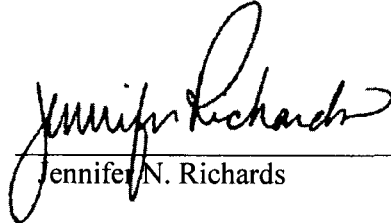
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**PUC DOCKET NO. 49637
SOAH DOCKET NO. 473-19-5831.WS**

CERTIFICATE OF CONFERENCE

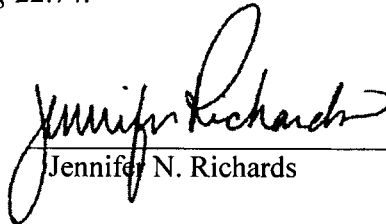
Counsel for all parties conferred on November 21, 2019. Neither the PUC Staff nor the Appellee oppose the requested relief.



Jennifer N. Richards

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on the 25th day of November 2019 as required by 16 TAC § 22.74.



Jennifer N. Richards

ATTACHMENT 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

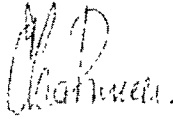
This document memorializes the settlement between the Mesa del Norte Ratepayers (“Ratepayers”) and the El Paso County Water Control and Improvement District No. 4 (“District”) of an appeal of out-of-district rates charged by the District. The parties agree that they have voluntarily come to this agreement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

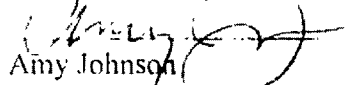
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Elsa Rivera for MDN Ratepayers

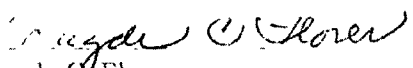
Date: 11-14-19

Approved as to Form:




Amy Johnson
Texas RioGrande Legal Aid
Counsel for MDN Residents

Date: 11-12-19

By:  Dated: 11/19/19
Magda C. Flores
President, Board of Directors
El Paso County Water Control & Improvement District No. 4

Attest: 
Thelma Quimones
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

ATTACHMENT 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: Magda C. Flores Dated: 11/19/19
Magda C. Flores
President, Board of Directors
El Paso County Water Control & Improvement District No. 4

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

APPROVED AS TO FORM:

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