

**BEFORE THE ELDORADO AREA WATER AND SANITATION DISTRICT**

**IN THE MATTER OF THE PROPOSED REVISIONS  
OF THE RATES OF THE ELDORADO AREA WATER  
AND SANITATION DISTRICT PURSUANT TO  
BOARD RESOLUTIONS NOS. 24-01-03 and 24-02-01**

**DECISION OF THE HEARING OFFICER**

This matter came before Peter J. Gould, Hearing Officer at a public hearing conducted on March 27, 2024. The subject matter of this hearing was the rate revisions proposed by the Board of the Eldorado Area Water & Sanitation District (“EAWSD” or “District”), in Resolution Nos. 24-01-03 and 24-02-01, adopted on January 17, 2024 and February 21, 2024, respectively. Having taken the sworn testimony of the District’s witnesses, reviewed the exhibits and other documentary evidence, and having heard comments regarding Resolution Nos. 24-01-03 and 24-02-01 at the March 27, 2024 public hearing, the Hearing Officer renders the following decision on the merits of the case.

**I. INTRODUCTION AND PROCEDURAL MATTERS**

1. The public hearing in this matter was held on March 27, 2025 commencing at 5:34 p.m. MDT. Hearing Officer Peter Gould conducted the hearing and took sworn testimony from the following witnesses: (i) Steve King, EAWSD General Manager; (ii) Anna Mondragon-Metzger, EAWSD Administrative Project Manager and (iii) Joseph Loewy, Member of the EAWSD Rate Design Study Advisory Committee, Capital Planning Advisory Committee, and Communications and Customer Service Advisory Committee.

Mr. Gould admitted into evidence the following numbered exhibits during the hearing:

- Hearing Exhibit 1: Affidavit of Steve King, EAWSD General Manager, with Exhibits A through E (“King Affidavit”)

- Hearing Exhibit 2: Affidavit of Anna Mondragon-Metzger, EAWSD Administrative Project Manager, with Exhibits A through E (“Mondragon-Metzger Affidavit”)
- Hearing Exhibit 3: Section 73-21-55 of the New Mexico Statutes
- Hearing Exhibit 4: Eldorado Area Water and Sanitation District - Meeting Minutes dated January 31, 2024
- Hearing Exhibit 5: Email from Carol Wendler to info@eawsd.org, entitled "Support for Higher Water Rates"
- Hearing Exhibit 6: EAWSD PowerPoint Slide Deck, titled, "Cost of Service and Rate Design Study" presented by Steve King at the March 27, 2024 public hearing (“King Hearing Slides”)
- Hearing Exhibit 7: EAWSD PowerPoint Slide Deck, titled, "Cost of Service and Rate Design Study" presented by Nelisa Heddin at the March 27, 2024 public hearing (“Heddin Hearing Slides”)
- Hearing Exhibit 8: Document from Joseph Loewy, titled Eldorado Area Water & Sanitation District Proposed Rates.
- Hearing Exhibit 9: Sign-in sheet for March 27, 2024 public hearing

A verbatim transcript of the hearing was prepared by Court Reporter David M. Lee of Cumbre Court Reporting Services, L.L.C.<sup>1</sup>

## **II. EAWSD'S COMPLIANCE WITH THE WATER AND SANITATION DISTRICT ACT**

2. EAWSD is a district organized under the provisions of the Water and Sanitation District Act (hereinafter "the Act"), NMSA 1978 §§ 73-21-1 *et seq.* Since the District has elected not to come under the jurisdiction of the New Mexico Public Regulation Commission ("Commission" or "NMPRC"), it is subject to the special provisions of Section 73-21-55 of the Act with respect to the March 27, 2024 hearing. Hearing Ex. 3. In addition, because EAWSD is located in Santa Fe County, which is a Class A County with a population of more than one hundred twenty-five thousand and less than one hundred thirty-five thousand, the District is subject to the provisions of Section 73-21-55.C of the Act.

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<sup>1</sup> The transcript of the March 28, 2024 hearing and all numbered hearing exhibits can be found at <https://www.eawsd.org>.

3. Section 73-21-55.C includes the following requirements that are relevant to this

Decision:

- (1) at least thirty days after publication of a notice of the board's intention to adjust rates, tolls, fees or charges, the board shall conduct a public hearing on the proposed resolution;
- (2) at the expense of the board, the board shall appoint a hearing officer to conduct the public hearing to be chosen from a list of hearing officers provided by the commission, and shall engage a court reporter to record the hearing and produce a verbatim written record of the hearing;
- (3) the board's hearing officer shall:
  - (a) hear proponents and opponents of the proposal;
  - (b) issue a decision rejecting, amending or adopting the resolution adjusting the rates, tolls, fees or charges; and
  - (c) within thirty days following the hearing, file the decision with the board.

4. The record demonstrates that the Board has complied with all of the specific requirements of Section 73-21-55.C of the Act.

a. Compliance with the thirty-day notice requirement

The following evidence in the record shows that the Board complied with the thirty-day notice provisions of Section 73-21-55.C(1) of the Act. On January 17, 2024, the Board formally approved Resolution No. 24-01-03 authorizing a public hearing to be held on March 27, 2024, to consider increases to EAWSD's water rates and fees. Hearing Ex. 1, King Affidavit, p. 4, ¶ 10. The District's customers received the following notices of the March 27<sup>th</sup> hearing thirty days prior to that hearing:

(i) The January 2024 and February 2024 editions of the District's publication, *Water Notes*, which contained notices of the March 27<sup>th</sup> hearing, were mailed and emailed, as applicable, to all of EAWSD's customers. King Affidavit, p. 5, ¶ 13. The January 2024 edition of *Water Notes* was provided to all of EAWSD's customers on, or about, January 10, 2024. Hearing Ex. 2, Mondragon-Metzger Affidavit.

(ii) The February 2024 edition of *Water Notes* was provided to all of EAWSD's customers during the second week of February 2024. Hearing Transcript, pp 65-66 (King and Mondragon).

(iii) A separate notice of all the March 2024 EAWSD Board meetings, which included notice of the March 27, 2024 hearing, was posted on the District's website on February 29, 2024. Mondragon-Metzger Affidavit, Exhibit C.

(iv) Contemporaneous notice of the March 27<sup>th</sup> hearing was posted in prominent outdoor locations in the El Dorado community. Mondragon-Metzger Affidavit, *supra*.

(v) The January 2024 edition of *Water Notes* also notified EAWSD's customers of a Public Forum on January 31, 2024 hosted by the District to discuss the proposed new rates. Mondragon-Metzger Affidavit, *supra*. Section VII of the agenda for the Public Forum, entitled Next Steps, also gave notice of the March 27<sup>th</sup> hearing. The invitation to the Public Forum was also posted on EAWSD's website on, or about, January 10, 2024. Mondragon-Metzger Affidavit, *supra*.

(vi) Additional notice of the March 27<sup>th</sup> hearing was provided through publication of the hearing date, time and location in the LaTienda at Eldorado community newsletter on January 25, 2024, March 7, 2024 and March 14, 2024. Mondragon-Metzger Affidavit, Exhibits B & C.

(vii) Notice was also provided through publication of the hearing date, time and location in the Santa Fe New Mexican on March 6, 2024. Mondragon-Metzger Affidavit, Exhibit C. This newspaper notice was supplemental to the thirty-day notices described above.

b. Compliance with the hearing officer and transcript requirements

(i) The record demonstrates that the Board complied with the provisions of Section 73-21-55.C(2) of the Act regarding selection of Hearing Officer, Peter J. Gould. In a letter to Mr.

King, NMPRC General Counsel Scott Cameron, acting on behalf of the Commission, acknowledged that the Undersigned Hearing Officer was an acceptable choice to conduct the March 27<sup>th</sup> hearing. King Affidavit, Exhibit E.

(ii) As noted above, the District also complied with Section 73-21-55.C(2) of the Act by hiring Cumbre Court Reporting Service to produce a verbatim transcript of the March 27<sup>th</sup> hearing. Mondragon-Metzger Affidavit, Exhibit E.

c. Compliance with the requirement for a public hearing

As quoted above, Section 73-21-55.C(3)(b) requires the Board to hold a public hearing to “hear proponents and opponents of the [rate] proposal.” The hearing transcript demonstrates that the District held the required hearing on March 27, 2024. At the hearing, the Hearing Officer received evidence and heard from the attendees regarding the Board's proposed water rate increases and adjustments.

d. Compliance with the requirement for a decision by the hearing officer

This written Decision of the Hearing Officer is being provided to the Board on April 18, 2024 via email in compliance with the thirty-day requirement of Sections 73-21-55.C(3)(b) & (c) of the Act.

For all these reasons, the record demonstrates the EAWSD has complied with all the relevant provisions of the Water and Sanitation District Act.

**III. EAWSD’S NEED FOR REVISED RATES**

5. On July 28, 2022, the District Board established a Rate Study Advisory Committee to review the District’s rates. King Affidavit, p. 2, ¶ 4. The Committee’s task was to determine whether new rates were needed to ensure that the District would continue to meet its operating and capital costs, its debt coverage costs and its reserve requirements at a level to

ensure the continued reliability of service. It was also tasked with designing rates that were fair to customers and promoted water conservation. *Id.* The Board authorized a professional services agreement with Nelisa Heddin Consulting to perform the rate study. *Id.* p. 3, ¶ 6. The Heddin rate study determined that revenues from current rates were not sufficient to cover current capital projects, future needs for system repair, replacement and upgrades, future increases to operating and administrative costs and the cost of water deliveries from Santa Fe County. Hearing Transcript, pp. 30-40 (King), pp. 48-52 (Heddin); *see also* Hearing Ex. 6, King Hearing Slides, pp. 5-10, Need for Rate Adjustment slides; *see also* Hearing Ex. 7, Heddin Hearing Slides, Driving Forces slide.

#### **IV. WATER DELIVERIES FROM SANTA FE COUNTY**

6. A significant change to the District's available sources of water occurred in the First Quarter of 2023 with the implementation of the Santa Fe County Water Delivery Project. King Hearing Slides, pp. 10. This project has been years in development and began actually delivering water in the March/April 2024 time period. The initial delivery amount is 100 acre feet/year (afy), which will increase over four years to 200 afy. Hearing Transcript, p. 70 (King). In four years, these deliveries will account for approximately 40% of the District's water needs. King Hearing Slides, p. 10. Prior to the completion of this project, the District depended entirely on its eleven active wells for its water supply, some of which were approaching the end of their useful lives. *Id.*, p. 9; Hearing Transcript, pp. 35-36 (King).

7. The water deliveries from Santa Fe County involve two new expenses not covered by current rates. The first new expense is \$243,000 for the 100 afy of water which will be delivered in 2025. This amount will increase proportionally as water deliveries increase. King Hearing Slides, p. 10; Hearing Transcript, pp. 38-41 (King). The second new expense is an

annual payment of \$238,620 for the use of Santa Fe County's water rights. King Hearing Slides, p. 10. This payment will continue for ten years. Hearing Transcript, pp. 39-40 (King).

## **V. ANALYSIS OF THE RECORD EVIDENCE**

8. As noted above, on January 17, 2024, the EAWSD Board approved Resolution No. 24-01-03. King Affidavit, Exhibit A. That Resolution stated that the Board had received a presentation of the preliminary results of the Rate Study Advisory Committee's study on October 18, 2023. Hearing Transcript, p. 28 (King). As a result of that presentation, the Board directed the General Manager, Steve King, and its retained rate consultant, Nelisa Heddin, to set up a process for the final approval of a five-year rate plan by the Board. That process was to include a Public Forum on January 31, 2024, in which the rate study would be presented to interested persons, and an evidentiary hearing on the proposed rate changes to be held on March 27, 2024. Board Resolution No. 24-01-03, ¶¶ 1-3; *see also* King Affidavit, pp. 2-4, ¶¶ 4-10.

9. On February 21, 2024, the Board adopted Resolution No. 24-02-01. King Affidavit, Exhibit B. That Resolution approved the adoption of the new rates for the 2025 through 2029 time period as recommended by the Rate Study Committee in the January 17, 2024 Board meeting. The specific rate, charges and fees for this 2025-2029 period were set forth in Exhibit A to that Resolution. King Affidavit, pp. 4-5, ¶¶ 11-13.

10. The central feature of Resolution No. No. 24-02-01 is the five-year rate plan for both base rates and volumetric rates, as set forth in Table 1, below. King Affidavit, Exhibit B.

**TABLE 1: RESIDENTIAL, COMMERCIAL, PUBLIC AUTHORITY RATES**

<b>MONTHLY RATES</b>	<b>CURRENT 2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>
<b><u>Base Rates</u></b>						
In-District	\$29.91	\$31.41	\$32.98	\$34.39	\$35.32	\$36.38
Out-of-District	\$60.56	\$75.78	\$78.23	\$80.46	\$82.41	\$84.41
<b><u>Volumetric Rates</u></b>						
<b><u>Per 1,000 Gallons Usage</u></b>						
3,000 gallons or less	\$12.82	\$13.27	\$13.73	\$14.21	\$14.71	\$15.32
3,001 – 6,000 gallons	\$16.03	\$16.59	\$17.16	\$17.76	\$18.38	\$19.15
6,001 – 10,000 gallons	\$21.82	\$23.22	\$24.03	\$24.87	\$25.74	\$26.81
10,001 – 20,000 gallons	\$37.46	\$40.64	\$42.05	\$43.52	\$45.04	\$46.92
20,001 – 30,000 gallons	\$64.53	\$71.12	\$73.53	\$76.16	\$78.82	\$82.11
Over 30,000 gallons	\$96.81	\$106.68	\$110.38	\$114.24	\$118.23	\$123.16

11. Proposed Base Rates. As can be seen from Table 1 above, the proposed Base Rates incorporate differences between In-District and Out-of-District customers. This rate differential is justified by the fact that the District collects a large portion of its revenues from property taxes, which are not paid by Out-of-District customers. Hearing Transcript, p. 58 (Heddin). In Fiscal Year 2025, the District will need a total of \$5.13 million to cover its projected expenses. *Heddin Hearing Slides*, Driving Forces - Expense Summary slide. In contrast, the District expects that its proposed rates will generate total revenues of approximately \$3.1 million in 2025. *Heddin Hearing Slides*, Revenue Requirements slide. The majority of the \$2 million revenue shortfall will be made up by the property taxes paid by the In-District customers. Hearing Transcript, p. 72 (Heddin). Therefore, it is reasonable for the Out-of-District customers to pay a higher Base Rate for the water service they receive from the District.

12. Table 1, above, shows that the proposed monthly Base Rate for In-District customers will increase by about \$1.50 a year for the proposed 2025-2029 five-year rate path. Hearing Transcript, p. 56 (Heddin). Table 1 also shows that the Out-of-District Base Rate will increase by about \$15.00 in 2025 and increase by an average of \$2.16 thereafter.



13. Volumetric Rates. Table 1 also shows that the largest volumetric rate increases are assigned to the highest water users. These increases are intended to encourage water conservation and efficient use of the District's limited water resources. King Affidavit, Exhibit C, *2025-2029 Cost of Service and Rate Design Study, Final Report, Heddin Consulting (2/27/24)* (“*Heddin Cost of Service Study*”), p. 6; *see also* Hearing Transcript, p. 77 (Loewy).

14. Other Rate Increases. In addition to the rates in Table 1, Resolution No. 24-02-01 included the following proposed rate adjustments to the District’s special fees and charges: (i) an increase in the Meter Testing Charges from \$250 to \$400 for 3/4 inch meters and from \$600 to \$800 for meters of 1 inch or greater; (ii) an increase in the deposit for a hydrant meter rental from \$1200 to \$1500; (iii) an increase in the returned check charge from \$25 to \$40; and (iv) a new field service charge of \$150. Resolution No. 24-02-01, Exhibit A. These fee increases reflect the District’s actual costs for the services provided. King Affidavit, p. 4, ¶ 12.

15. Property Tax Levy Assumption. As noted above, the District relies heavily on property taxes received from its In-District customers to pay its annual expenses. The revenues received from these property taxes help make up the \$2 million difference between the District’s expenses and its revenues from its base and volumetric rates. Hearing Transcript, p. 72 (Heddin); *see also Heddin Cost of Service Study*, Schedule 1, Seven Year Projection of Revenue Requirements, Revenue Off-Sets.

16. The *Heddin Cost of Service Study* recommended an increase in the property tax assessment to \$4.36 per \$100 of assessed property valuation. *Id.* at p. 12, Revenue Off-Sets. This property tax increase was incorporated in the Board’s rate increase proposal. *Heddin Hearing Slides*, Recommended Rate and Fee Design slide. In total, this property tax assessment is expected to raise approximately \$1.6 million in revenues for the District in 2025. *See Heddin*

*Cost of Service Study*, Schedule 1, Seven Year Projection of Revenue Requirements, Revenue Off-Sets.

17. Projected Five-Year Expenses and Revenues. The District projects that its five-year expenses will be as follows: 2025 - \$5.131 million; 2026 – \$5.471 million; 2027 - \$5.826 million; 2028 - \$6.075 million; and 2029 - \$6.325 million. *Heddin Cost of Service Study*, Schedule 1, Seven Year Projection of Revenue Requirements. The projected revenue from the base and volumetric increases will be as follows: 2025 - \$3.078 million; 2026 – \$3.376 million; 2027 - \$3.689 million; 2028 - \$3.894 million; and 2029 - \$4.101 million. *Id.*; *see also Heddin Hearing Slides*, Revenue Requirement slide. As noted above, the difference will be made up by increased property tax assessments and other revenue off-sets as set forth in Schedule 1 to the *Heddin Cost of Service Study*, cited above.

18. Other Revenue Sources. Even with the proposed rate increases and the off-set revenues, the District will not have enough revenue to fully fund its capital needs in the next five years. Those five-year capital needs are projected to be over \$13 million dollars. *Heddin Hearing Slides*, Driving Forces slide. The rate increases are set to cover approximately \$8.8 million of these capital projects. *Id.*, Revenue Requirements slide. Rather than propose additional rate increases to cover this potential shortfall, the District will continue to aggressively pursue grants from the State to cover these costs. Hearing Transcript, pp. 42-43 (King); Hearing Ex. 8, Loewy Document. In the past, the District has been successful in securing these capital grants. In the 2020-2023 time period alone, the District secured \$4.685 million in State grants to help fund its \$10 million capital improvement projects. Hearing Transcript, pp. 42-43 (King); *see also King Hearing Slides*, p. 11, Successes slide.

19. Rate Impact. The average customer on the EAWSD system uses approximately 3700 gallons per month. The *Heddin Cost of Service Study* at page 16 projects the following bill impacts for this average customer over the five-year rate path:

2024 Monthly Bill at Current Rates: \$79.59

2025 Monthly Bill: \$82.83 – 4.1% increase

2026 Monthly Bill: \$86.18 – 4.0% increase

2027 Monthly Bill: \$89.36 – 3.7% increase

2028 Monthly Bill: \$92.31 – 3.3% increase

2029 Monthly Bill: \$97.75 - 3.7% increase

20. Customer Comments. The district held a Public Forum on January 31, 2024. Mondragon-Metzger Affidavit, Exhibit B. Notice of that Public Forum was publicly posted. *Id.* The agenda included a full description of the proposed rate increases. Both Mr. King and Ms. Heddin made presentations describing the proposed rate increases. Hearing Ex. 4, Minutes of January 31, Public Forum; *see also* Hearing Transcript, p. 28. Approximately seventeen customers attended this Forum. Mondragon-Metzger Affidavit, Exhibit B. Hearing Ex. 4. Contains a summary of the comments and responses at the January 31<sup>st</sup> Public Forum.

21. Two customers attended the March 27<sup>th</sup> hearing and asked questions regarding the proposed revised rates. Neither customer opposed the rate increases. One customer sent the District an email stating support for the rate increases. Hearing Ex. 5, Wendler email.

## **VI. RECOMMENDATIONS**

22. Based on the evidence detailed above, the Hearing Officer makes the following recommendations to the District Board:

- Approve the proposed rates set forth in Board Resolution No. 24-02-01 for the 2025 through 2029 rate period. The evidence in the record demonstrates that these proposed rates will provide the District with sufficient revenues to meet its ongoing operating and capital costs, and its debt coverage and reserve requirements at a level necessary for the continued reliability of service. These rates are fair to customers and will promote water conservation.
- Continue to monitor operating results monthly and annually.
- Review the need for a change in the property tax mill levy annually.
- Continually evaluate capital improvement needs and propose increases in the future to fund necessary projects.
- Restudy the need for future rate revisions every three to five years.

**VII. FINDINGS AND CONCLUSIONS**

Based on the case record, the Hearing Officer provides the following FINDINGS AND CONCLUSIONS in this matter:

- A. The Board has provided legally proper and adequate notice of the March 27, 2024 hearing and its proposed rate increases contained in its Resolution Nos. 24-01-03 and 24-02-01.
- B. The Board has met all the other requirements of Section 73-21-55(C) of the New Mexico Statutes for the reasons stated in the body of this decision.
- C. The record in this matter, viewed in its entirety, supports the adoption of the five-year rate plan set forth in Exhibit A to Board Resolution No. 24-02-01. The District’s new rates should go into effect with the February 2025 billing cycle for January 2025 water usage.

D. The Board should adopt all the other recommendations in this Decision to ensure that the District's future revenues are sufficient to meet its needs and to further ensure that the District continues to provide safe, efficient and reliable water service to its customers.

Respectfully submitted, this 18<sup>th</sup> day of April 2024 by

/s/ Electronically signed by  
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