

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE CITY OF LAS CRUCES UTILITIES**

**IN THE MATTER OF THE APPLICATION)
OF THE CITY OF LAS CRUCES UTILITIES)
FOR AN INCREASE IN RATES FOR)
WASTEWATER SERVICE,)
CITY OF LAS CRUCES UTILITIES,) Case No. 2009-002 (WW)
Applicant.)**

**SECOND AMENDED NOTICE OF HEARING TO
WASTEWATER SERVICE CUSTOMERS OF LAS CRUCES UTILITIES**

NOTICE is hereby given to all wastewater service customers of the Las Cruces Utilities ("LCU"), pursuant to the Interim Rules Governing Rate Proceedings Before the Board of Commissioners for the City of Las Cruces Utilities and Appeals Pursuant to City Council Resolution No. 09-170 (the "Interim Rules"), approved on June 11, 2009 by Resolution No. 08-09-066 of the Board of Commissioners for the City of Las Cruces Utilities (the "Utilities Board"), that:

1. On August 21, 2009, Las Cruces Utilities ("LCU") filed with the Utilities Board its Application for an Increase in Rates for Wastewater Service with direct testimony, exhibits and proposed rate schedules or tariff sheets (the "Application"). LCU's Application proposed new rate schedules and revised wastewater service rates for each class of service, elimination of certain existing rate schedules, and increases in the charges for new service connections, all of which were described in more detail in the Notice to Wastewater Service Customers of Las Cruces Utilities promulgated in the Initial Procedural Order issued in this proceeding on August 24, 2009, and published in the Las Cruces Sun News on August 30, 2009. That Notice is available for review on the

City of Las Cruces' website, website, <http://www.las-cruces.org>, and is available for review at <http://www.las-cruces.org/utilities/notice.shtm>.

2. LCU's Application sought approval of the proposed rates in accordance with the new procedures for consideration of rates for the LCU's water, wastewater, natural gas and solid waste utilities that have been adopted by the Las Cruces City Council in the past several years. The Interim Rules adopted by the Utilities Board to govern such rate proceedings are available on the LCU's page of the City of Las Cruces' website at <http://www.las-cruces.org/PDFs/rules.pdf> or from the Utilities Board's chief clerk or her designee at 680 North Motel Boulevard, Las Cruces, New Mexico 88007, telephone: (575) 528-3636.

3. On October 13, 2009, the Utilities Board issued the Second Procedural Order in this case. That order established deadlines for the filing of direct testimony by the Ratepayer Advisory Committee (the "RAC"), an ad hoc board appointed by the Las Cruces City Council to represent the interest of the residential and small commercial customer rate classes, and by any other intervenor; for the filing of rebuttal testimony; and for a hearing on LCU's Application, which was to commence on January 28, 2010.

4. At a public hearing on December 10, 2009, the Utilities Board approved a stipulated settlement agreement between LCU and the RAC that provided for the public hearing on LCU's Application to be postponed until April 22, 2010, so that LCU could file substitute testimony, exhibits and rate schedules based on historical data updated to encompass the twelve months ending June 30, 2009. Pursuant to the Third Procedural Order Approving Stipulation, issued on January 6, 2010, and the Amended Notice of Hearing to Wastewater Service Customers of Las Cruces Utilities, published in the Las

Cruces Sun News on January 24, 2010, deadlines for the filing of direct and rebuttal testimony were established and a hearing was set to begin on April 22, 2010, to continue on April 23, 2010, and if necessary to continue on April 29 and April 30, 2010. A public comment hearing was set to begin at 6:00 p.m. on April 21, 2010.

5. Following the filing of substitute direct testimony and exhibits by LCU on February 1, 2010, and the filing of direct testimony and exhibits by the RAC on February 24, 2010, in accordance with the terms of the Third Procedural Order Approving Stipulation and the Amended Notice of Hearing, LCU and the RAC, the only parties to this proceeding, engaged in informal settlement discussions which resulted in a settlement agreement resolving all issues in this case.

6. On April 14, 2010, LCU and the RAC filed a Joint Motion to Amend Procedural Order for Filing of Stipulation and Supporting Testimony. In that Motion, they requested that certain changes be made to the procedural schedule set forth in the Third Procedural Order Approving Stipulation and the Amended Notice of Hearing to facilitate presentation of their agreement in the form of a written stipulation, accompanied by a reconciliation statement describing current rates, proposed rates, and stipulated rates and written testimony supporting approval of the stipulation.

7. The Procedural Master has reviewed that Motion and finds that the requests made by LCU and the RAC are consistent with Interim Rule 12, Settlements and Stipulations, and are otherwise reasonable, and that the Motion should be granted. The Procedural Master further finds that the recommendations made by LCU and the RAC in that Motion concerning the publication and internet posting of this Second Amended

Notice of Hearing to Wastewater Service Customers of Las Cruces Utilities are reasonable and should be adopted.

8. Consistent with the Procedural Master's granting of the Motion and adoption of LCU's and the RAC's recommendations regarding public notice, the following procedural schedule for this Utilities Board Case No. 2009-002 (WW) has been established:

A. No later than April 29, 2010, LCU shall publish this Second Amended Notice of Hearing to Wastewater Service Customers of Las Cruces Utilities one time in the Las Cruces Sun News. LCU shall ensure that an affidavit of publication is filed promptly upon publication of that notice.

B. No later than April 16, 2010, LCU shall cause this Second Amended Notice of Hearing to Wastewater Service Customers of Las Cruces Utilities to be posted on the City's website, <http://www.las-cruces.org>. LCU shall promptly file an affidavit reflecting such Internet posting.

C. No later than April 20, 2010, LCU and the RAC shall file a stipulation and reconciliation statement.

D. No later than April 20, 2010, LCU shall, and the RAC may, file direct testimony and exhibits in support of the stipulation.

E. A public hearing to determine whether the stipulation shall be approved by the Utilities Board will be held beginning at 9:00 a.m. on Friday, April 30, 2010, at the Mesilla Park Recreation Center, 304 West Bell Avenue, Las Cruces, New Mexico 88047. If additional hearings are necessary, the Utilities Board will notify the

LCU, the RAC and any other parties to the proceeding and give public notice of the additional hearings pursuant to the New Mexico Open Meetings Act.

F. A public comment hearing shall be held by the Utilities Board, as previously scheduled, from 6:00 p.m. through 8:00 p.m. on Wednesday, April 21, 2010, at the Mesilla Park Recreation Center, 304 West Bell Avenue, Las Cruces, New Mexico 88047. Any interested person may appear at the public comment hearing and make written or oral comment pursuant to Rule 4(A) of the Interim Rules. Such comments will not be considered as evidence in this case.

G. All other procedural dates and deadlines set forth in the Third Procedural Order Approving Stipulation and the Amended Notice of Hearing to Wastewater Utility Customers shall be vacated, including the April 15, 2010 deadline for rebuttal testimony and the public hearing on LCU's original Application scheduled to begin on April 22, 2010.

9. The procedural dates, locations and other requirements provided in this notice are subject to modification upon further order of the Procedural Master or the Utilities Board.

10. Any person who filed written substituted direct testimony and who also filed written testimony in support of the stipulation on behalf of LCU shall attend the hearing on the stipulation and shall submit to examination under oath. Any person who filed written direct testimony on behalf of the RAC except for Kevin Armstrong shall be available in person or by telephone at the hearing on the stipulation and shall submit to examination under oath. Mr. Armstrong or another representative of the RAC shall

attend the hearing on the stipulation and shall submit to examination concerning the RAC's approval of the stipulation.

11. A copy of LCU's Application and all other documents included in the public record of this proceeding, including the stipulation to be filed on or before April 20, 2010, shall be available for public inspection at the Thomas Branigan Memorial Library, 200 East Picacho Avenue, Las Cruces, New Mexico 88001, during ordinary library hours.

12. Interested persons should consult the City of Las Cruces' website, <http://www.las-cruces.org>, or contact the chief clerk of the Utilities Board or the chief clerk's designee at the offices of the Utilities Board, 680 North Motel Boulevard, Las Cruces, New Mexico 88007, telephone: (575) 528-3636, for further information and to confirm the time, date and location of any public hearing in this proceeding, as hearings are occasionally rescheduled.

13. Any person filing pleadings, documents or testimony in this case shall serve copies on LCU, the RAC and all other parties of record electronically by posting through the chief clerk or the chief clerk's designee on the Case Anywhere website.

14. The Interim Rules shall apply to this rate proceeding, including the procedures to be used by the Utilities Board, LCU, the RAC, any intervenors and other interested persons, except as modified by order of the Procedural Master or the Utilities Board.

15. Any person with a disability requiring special assistance to participate in this proceeding should contact the Utilities Board at least 24 hours prior to the commencement of the hearing.

ISSUED at Las Cruces, New Mexico this 15th day of April, 2010.

**THE BOARD OF COMMISSIONERS FOR
THE CITY OF LAS CRUCES UTILITIES**

A handwritten signature in cursive script, reading "Leeann DeMouche", written over a horizontal line.

Leeann DeMouche
Procedural Master

By Marcia B. Driggers as Attorney for the Board with
electronic authorization from Leeann DeMouche