

**GOVERNMENT OF PUERTO RICO
DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
DIRECTORATE OF EXCAVATIONS, DEMOLITIONS AND PIPELINES
(787) 722-2929, EXT. 12277/12448/12400**

PDM Utility Corporation
10 EXECUTIVE OFFICE DR.
HUMACAO, PR 00791-5235

PETITIONER

LCDO. JUAN CARLOS GÓMEZ ESCARCE

AUTHORIZED REPRESENTATIVE

CASO CSP NÚM.: **MISC. 386**

REGARDING: REQUEST FOR
AMENDMENT TO AUTHORIZATION
ON CUSTOMER RATES

RESOLUTION AND ORDER

FACTUAL BACKGROUND

On February 1, 2023, petitioner PDM Utility Corporation ("PDMU") filed with the Department of Transportation and Public Works ("DTOP") and the Bureau of Excavation, Demolition and Pipelines ("DEDT") a request to amend Franchise Misc. 386, to increase the rates and connection charges for potable water and sanitary sewer services provided to subscribers within the Palmas del Mar community.

As part of its request to amend Franchise Misc. 386, PDM filed a motion attaching the following documents:

- a. Department of Transportation and Public Works Miscellaneous Business Enterprise Authorization Application (**Exhibit 1**);
- b. Resolution and Order of the Public Service Commission, issued on April 30, 1974, granting PDMU a franchise (Franchise Misc. 386) as a pipeline utility to operate an aqueduct and sewer system in Palmas del Mar, as amended from time to time. (**Exhibit 2**);
- c. Certificate of Necessity and Convenience of the Public Service Commission, approved on May 3, 1974, authorizing the granting of the franchise to PDMU to design, construct and operate an aqueduct and sewerage system for the Palmas del Mar Community. (**Exhibit 3**);
- d. Resolution and Order of the Public Service Commission, issued on March 6, 1986, amending the PDMU franchise to provide for a new rate system for potable water and sanitary sewer services. (**Exhibit 4**);

- e. Resolution and Order of the Public Service Commission, issued on June 2, 2004, approving amendments to the PDMU franchise, including a revision to PDMU rates. **(Exhibit 5)**;
- f. Report of the firm PJ Sun, LLC, dated November 28, 2022. **(Exhibit 6)**;
- g. Articles of Incorporation of PDMU, as amended, certified by the Secretary of State of Puerto Rico. **(Exhibit 7)**;
- h. PDMU By-laws, as amended, certified by the Secretary of PDMU **(Exhibit 8)**;
- i. PDMU's audited financial statements for the previous fiscal year, stamped in original by PDMU's independent certified public accounting firm. **(Exhibit 9)**;
- j. Criminal Record Certificate of the Executive Director, as Authorized Representative, of PDMU. **(Exhibit 10)**;
- k. Certificate of Incumbency signed by the Secretary of PDMU, certifying the members that compose the Board of Directors of PDMU. **(Exhibit 11)**;
- l. PDMU Certificate of Corporate Conduct (Good Standing) issued by the Secretary of State of Puerto Rico **(Exhibit 12)**;
- m. Certificate of Corporate Resolution signed by the Secretary of PDMU, certifying the resolutions approved by the Board of Directors of PDMU authorizing the filing of this rate increase amendment application with the Department of Transportation and Public Works. **(Exhibit 13)**;
- n. Driver's Social Security Certification issued by the Department of Labor. **(Exhibit 14)**;
- o. Two 2" x 2" color photos of the Executive Director, as PDMU Authorized Representative. **(Exhibit 15)**;
- p. Certification of Income Tax Return filing for the last 5 years of PDMU issued by the Department of Treasury. **(Exhibit 16)**;
- q. PDMU's Negative Certificate of Corporate Debt issued by the Department of Finance. **(Exhibit 17)**;
- r. Certificate of Liability Insurance designating the Department of Transportation and Public Works as additional insured, with an expiration date of May 30, 2023. **(Exhibit 18)**; and
- s. Receipt of payment in the amount of seventy-five dollars (\$75.00) **(Exhibit 19)**.

Pending said request and prior to publishing the corresponding notice required by Section 6.00 (Issuance and Publication of Notices) of the Administrative Procedure Rules of the Public Service Commission (Regulation No. 7076 of December 21, 2005), on **February 13, 2024**, PDMU submitted before the DTOP and the DEDT a Revision and Update to the aforementioned request for amendment to Franchise Misc. 386, to increase the rates for potable water and sanitary sewer services.

The Review and Update included a Memorandum explaining and justifying the amendment request. As part of the revisions and updates, the request for an increase in the

connection fees for potable water and sanitary sewer services was excluded. As explained in said letter and in the accompanying documents to update the amendment request, it is convenient and necessary to increase the rates for potable water and sanitary sewer services due to the increases in the cost of living and/or inflationary effects that have occurred in the past years. These costs include increases in operating expenses for PDMU to provide water and sewer services, such as: cost of electric power, maintenance and repair of distribution lines and pump stations, storage tanks, meter installation, meter reading, subscriber billing and customer service. As explained in these documents, over the past twenty (20) years, since 2004, these costs have been absorbed by PDMU. As a result, PDMU has experienced the loss of reserve funds for improvements and replacement of assets amounting \$5 Million. It is noted that failure to address this situation would jeopardize PDMU's ability to meet the costs of maintenance, improvements and replacement of existing infrastructure necessary to provide potable water, sanitary sewer and wastewater treatment services to the system's subscribers. As explained by PDMU, it is not only necessary and convenient, but essential to amend Franchise Misc. 386 to increase the rates for the potable water and sanitary sewer services provided to subscribers within the Palmas del Mar community.

PDMU's requested amendment to Franchise Misc. 386 is as follows:

1. That the rates for potable water and sanitary sewer service be modified as follows:

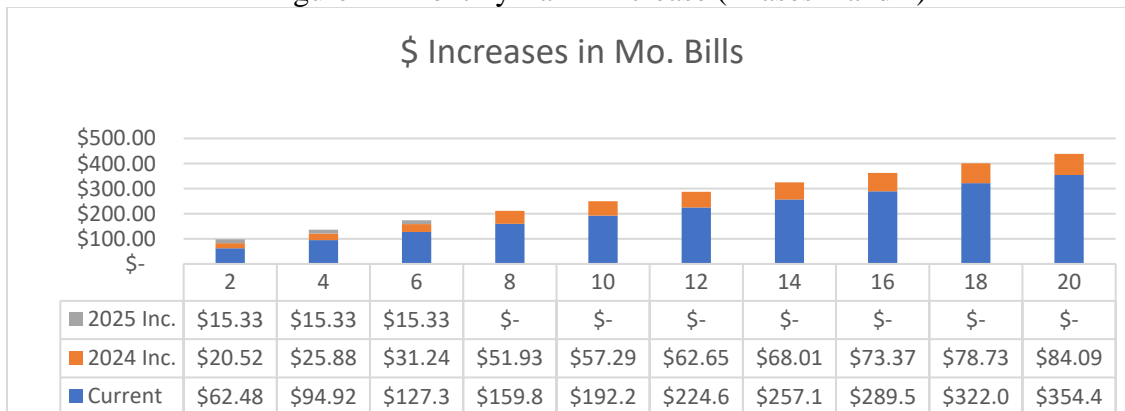
	Current			Proposed			%
	Water	Sewer	Total	Water	Sewer	Total	Increase
Volume Charge / 1,000 gallons							
Residential	\$ 14.78	\$ 1.44	\$ 16.22	\$ 16.80	\$ 2.10	\$ 18.90	17%
Commercial	14.78	1.44	16.22	\$ 18.50	\$ 2.30	\$ 20.80	28%
Monthly Minimum Bill (includes 1st 2,000 gallons)							
Meter Size							
5/8"	43.31	19.17	62.48	59.25	39.08	98.33	57%
1'	53.37	30.57	83.94	94.15	91.08	185.23	121%
1-1/2"	78.52	59.07	137.59	152.31	177.76	330.07	140%
2"	108.68	93.28	201.96	222.10	281.78	503.87	149%
3"	179.11	173.09	352.2	408.21	559.14	967.35	175%
4"	279.72	287.11	566.83	617.58	871.18	1,488.76	163%

a. These rates, under the minimum monthly charge, will continue to give the residential subscriber access to a consumption of up to 2,000 gallons. After these are consumed, the residential rates will be \$16.80 for potable water service and \$2.10 for sanitary sewer service for each one thousand (1,000) gallons consumed by the residential subscriber.

b. For the commercial component, the rates for consumption in addition to the 2,000 gallons covered in the minimum charge described above, would be \$18.50 for potable water service and \$2.30 for sanitary sewer service per thousand (1,000) gallons consumed by the commercial subscriber.

c. In order to minimize the immediate impact of this revision, PDMU will establish a phased increase for residential subscribers consuming up to 6,000 gallons using a 5/8" meter. This is shown in Figure #1 below.:

Figure 1 - Monthly Tariff Increase (Phases 1 and 2)



2. According to the Franchise, rate increases for water service dictated by the Aqueduct and Sewer Authority will be transferred directly to the subscriber, without any additional component to those mentioned above.

3. As with connection expenses, to authorize the annual revision of service rates, taking into consideration the inflationary effects of the previous year. These adjustments would be based on data updated and corroborated by the development and financial entities of the Government of Puerto Rico, as officially published by them.

4. Subscriber connection fees, which entitle the subscriber to receive service in a new unit, will be filed separately as part of the franchise amendment for the new economic model for financing new infrastructure.

5. That the above-described amendment supersedes and renders null and void all language and expressions contained in the resolutions and orders relating to Franchise Misc. 386 that are incompatible and/or inconsistent with this amendment.

6. That all PDMU concessionaire's authorization documents shall be deemed amended by the provisions of this amendment, which shall prevail over such documents as to the matters discussed herein.

With its Petition for Review and Update, PDMU attached the following documents, by way of clarification to the "PDMU Application to Increase Water and Sewer Service Rates for Palmas del Mar," originally submitted to the DTOP:

- a. Certificate of Corporate Resolution authorizing the Executive Director (substituted Exhibit 13 of the original petition);
- b. Report of the firm PJ Sun, LLC, dated January 5, 2024 (**Exhibit A**, supersedes Exhibit 15 of the original petition);
- c. Billing history by the Puerto Rico Aqueduct and Sewer Authority (PRASA) for the period from December 20, 2022 to December 20, 2023. (**Exhibit B**);
- d. Implementation of the automatic 2% increase decreed by the PRASA and the 2022 and 2023 Rate Table of PDM Utility Corp. (**Exhibit C**);
- e. Projected Capital Improvement Plan from 2023-2028 to 2033 (**Exhibit D**);
- f. Audited Financial Report 2021-2022, prepared by RSM (replaces Exhibit 9 of the original petition);
- g. Certificate of Public Liability Insurance (replaces Exhibit 18 of the original petition).

Pursuant to Section 6.02 of the Administrative Procedure Rules of the Public Service Commission (Regulation No. 7076 of December 21, 2005), on **March 26, 2024**, a Public Notice was published in the newspapers of general circulation El Vocero de PR (Affidavit #130374) and Primera Hora (Affidavit #23773) regarding the amendment to the Misc 386 authorization, filed by PDM Utility Corporation. Said notice warns that any natural or juridical person who wishes to

appear and be heard must file, within fifteen (15) days from the publication of the Notice, a sworn writing stating in detail the facts on which he/she bases his/her right to intervene. The right to request a public hearing is also advised. The Notice included the following tables on the itinerary of proposed tariffs:

Figure 1- Proposed Rates

	Current			Proposed			% Increase
	Water	Sewer	Total	Water	Sewer	Total	
Volume Charge / 1,000 gallons							
Residential	\$ 14.78	\$ 1.44	\$ 16.22	\$ 16.80	\$ 2.10	\$ 18.90	17%
Commercial	14.78	1.44	16.22	\$ 18.50	\$ 2.30	\$ 20.80	28%
Monthly Minimum Bill (includes 1st 2,000 gallons)							
Meter Size							
5/8"	43.31	19.17	62.48	59.25	39.08	98.33	57%
1"	53.37	30.57	83.94	94.15	91.08	185.23	121%
1-1/2"	78.52	59.07	137.59	152.31	177.76	330.07	140%
2"	108.68	93.28	201.96	222.10	281.78	503.87	149%
3"	179.11	173.09	352.2	408.21	559.14	967.35	175%
4"	279.72	287.11	566.83	617.58	871.18	1,488.76	163%

Figure 2^a - Rate increase (phase 1 and phase 2)

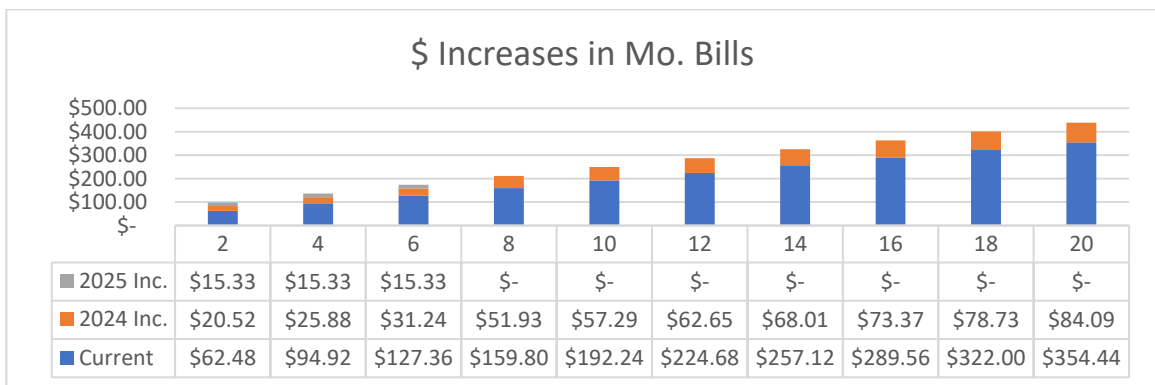
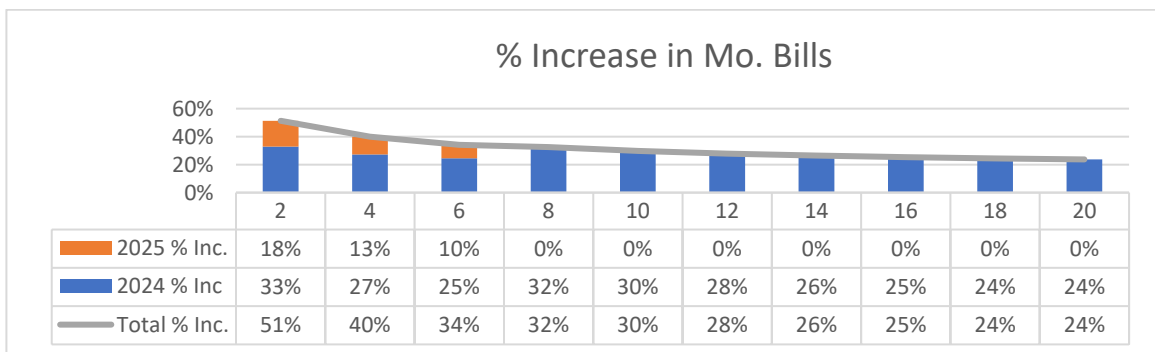


Figure 2b - Rate increases (phase 1 and phase 2)



On **April 16, 2024**, PDMU submitted to the DEDT of the DTOP the original affidavit of the newspapers of general circulation Primera Hora and El Vocero, attesting that the Public Notice regarding the request for amendment to Franchise Misc. 386, to increase the rates for potable water and sanitary sewer services, was published on March 26, 2024.

On **April 17, 2024**, PDMU submitted to the DTOP's DEDT a request to hold a public hearing on the announced request to amend Franchise Misc. 386, to increase the rates for potable water and sanitary sewer services.

Other than PDMU, no other natural or legal person requested a hearing or appeared or submitted comments to the DTOP/DEDT with respect to PDMU's application.

By Administrative Order dated **April 29, 2024**, DEDT set an administrative hearing for **May 23, 2024** on the application to amend Franchise Misc. 386 of PDMU.

On **May 7, 2024**, Palmas del Mar Properties, Inc. ("PDMPI") filed a Motion for Information and Request for Leave, in which it informed that said entity supports PDMU's request for a rate increase and requests that it be granted leave to present its position during the hearing to be held on May 7, 2024.

On **May 23, 2024**, the administrative hearing was held, as indicated. Juan Carlos Gómez appeared on behalf of PDMU and its witnesses in support of the petition request. To that effect, the following persons testified on behalf of PDMU:

a. **Mr. Felix A. Morales Castro**, CPA and former Chairman of the Board of Directors of PDMU - testified that the rates have not been revised in 20 years and that there is a need to increase said rates to (i) recover all operational and administrative expenses incurred, including depreciation and interest, to provide potable water, sewage, storage, distribution, and wastewater treatment services; (ii) create cash reserves to finance the capital replacement investments of the utility systems and other necessary contingencies, including maintaining the infrastructure

necessary to provide the services; (iii) maintain an adequate working capital reserve; (iv) have adequate financial capacity to meet short-term and long-term economic obligations.

b. **Mr. Paul J. Cumiskey**, CPA and principal of the firm PJ Sun, LLC - testified about financial studies conducted on PDMU's economic situation, according to which PDMU has been losing funds due to costs and expenses in providing service outpacing collections; while operational and maintenance costs and expenses (including administration, salaries and licenses), as well as inflation, have increased, PDMU's rate has remained the same for 20 years. Testified on the need to increase rates for water and sewer services to recover the full costs of providing those services, plan for capital expenditures through 2028 and provide working capital and special reserves for infrastructure renewal and replacement, and how to structure the rate increase to achieve those objectives.

c. **Daniel E. Torrellas Cruz**, licensed engineer and Executive Director of PDMU - testified on operational aspects of PDMU, need for capital to carry out operations and perform necessary maintenance, repairs and improvements, efforts to obtain financing without having to increase rates and the need for the proposed increase to ensure continuity of potable water and sanitary sewer services to the community of Palmas del Mar. He also testified about the publicity that PDMU has provided to the rate increase request and this DTOP hearing, through PDMU's web page and by posting notices.

In its turn to present evidence, PDMU submitted in writing the presentations of its witnesses and their respective *curriculum vitae*.

d. **Harry O. Cook** appeared as PDMPI's representative before the PDMU Board of Directors and testified about his endorsement of the proposed rate increase, believing that it responds to increases in operation and maintenance costs, that it will strengthen PDMU's financial health, and that it will ensure that services can continue to be provided with the usual quality. At the conclusion of his testimony, Mr. Cook submitted his written presentation.

e. **Mr. Victor Elí Velázquez** appeared as a PDMU subscriber and Delegate of District 70 of the community of Palmas del Mar. He testified that he has resided in Palmas del Mar for 30 years and is opposed to the proposed increase. He testified that Palmas del Mar is the most expensive place to pay for water service, that PDMU should make operational adjustments and regulate its expenses; otherwise, the service should be turned over to the Puerto Rico Aqueduct and Sewer Authority ("PRASA"). He did not submit a written testimony, nor did it request to be an intervening party in the proceedings.

f. **Otto Nadal**, President of the Board of Directors of PDMU, testified that the increase in the water rate is justified and that the service provided by PDMU is better than the service provided by PRASA. After several procedural steps, the petition was evaluated in its entirety.

Based on the testimonies presented and the documentary evidence in the record, as well as the entire administrative file of this case, we formulate the following:

FINDINGS OF FACTS

1. PDMU was organized on June 8, 1973 as a non-profit corporation incorporated under the laws of the Commonwealth of Puerto Rico, to provide and ensure the supply and distribution of potable water and wastewater treatment to all subscribers requesting such services within the geographic boundaries of Palmas del Mar; being a planned residential-tourist development with an area of approximately 3,000 acres and 8,000 units authorized for development in the municipalities of Humacao and Yabucoa, Puerto Rico, pursuant to the master plan approved by the Planning Board in 1968, as amended.

2. On April 30, 1974, the Public Service Commission ("PSC") issued a "Resolution and Order" granting PDMU a franchise (Franchise Misc. 386) as a pipeline utility to operate an aqueduct and sewer system in Palmas del Mar. This franchise was granted in response to PRASA's

recognition that it was unable to provide potable water and sewer services to the residential and tourist community. According to the PSC, the need and convenience of the service provided by PDMU was proven.

3. On May 3, 1974, the PSC approved the Certificate of Necessity and Convenience to PDMU to operate an aqueduct and sewer system for the Palmas del Mar Community. The CSP declared that it was convenient and necessary in the public interest to grant the franchise to PDMU.

4. PDMU is a pipeline company for purposes of compliance with Article 18 of Law No. 149-2014 and as defined by applicable laws and regulations.

5. According to the evidence presented and contained in the administrative file, it is convenient and necessary to increase the rates for potable water and sanitary sewer services due to the increases in the cost of living and/or inflationary effects that have occurred in the past few years. These costs include increases in operating expenses for PDMU to provide water and sewer services, such as: cost of electric power, maintenance and repair of distribution lines and pump stations, storage tanks, meter installation, meter reading, subscriber billing and customer service.

6. Over the past twenty (20) years, since 2004, these costs have been absorbed by PDMU. As a result, PDMU has experienced the loss of reserve funds for asset improvements and replacement amounting to over \$5Million. Failure to address this situation would jeopardize PDMU's ability to meet the costs of maintenance, improvements and replacement of existing infrastructure necessary to provide potable water, sanitary sewer and wastewater treatment services to the system's subscribers.

7. Therefore, Petitioner PDMU has made a factual justification that it is necessary and appropriate to amend Franchise Misc. 386 to increase the rates for potable water and sanitary sewer services provided to subscribers within the Palmas del Mar community.

8. The DTOP is in a position to administratively resolve PDMU's petition, complying with the applicable regulations and requirements set forth in the Puerto Rico Uniform Administrative Procedure Act, Act No. 38-2017.

9. In light of the foregoing Findings of Fact, we make the following determinations:

CONCLUSIONS OF LAW

1. The DTOP has the authority to grant this authorization by virtue of the powers granted to it by Act No. 149-2014.

2. Act No. 149-2014 establishes the need to transfer from the PSC to the DTOP the power to regulate and order compliance with local and federal regulations on the handling of natural gas and the pipeline transportation of products in Puerto Rico. The transfer of such administrative functions is intended to:

"to achieve greater harmony and integration between the agencies of the government of the Commonwealth of Puerto Rico and the government of the United States of America, specifically between the Department of Transportation and Public Works and the U.S. Department of Transportation."

3. Likewise, Act No. 149-2014, Article 3 provides as additional objective:

"Regulate any company, natural person, juridical person and business, regardless of the form in which it is organized, that owns, controls, exploits or administers any pipeline in Puerto Rico that is used in connection with, or to facilitate the transmission, storage, distribution or delivery of any product by means of this".

4. Article 18 of Law No. 149-2014 establishes that:

"Until the Secretary of DTOP adopts the substantive and procedural regulations pursuant to the provisions of this Act, the Secretary of DTOP shall exercise the administrative powers, including the adjudicative and permitting processes, with respect to pipeline companies and gas companies, under the regulations adopted by the PSC that are in effect on the date of approval of this Act".

5. To that effect, we have evaluated the requirements established in the PSC Administrative Procedure Rules ("Regulation No. 7076) and the applicable laws, in order to comply with the request made by PDMU.

6. Pursuant to Articles 16 and 17 of UN Law No. 109-1962, the PSC was also empowered to determine and approve just and reasonable rates for the public service companies under its jurisdiction. Said power was transferred to the DTOP by virtue of Act No. 149-2014.

7. Article 23 (a) of Act No. 109-1962, as amended, provides that any application made to the Commission shall be granted only when the Commission determines that the granting or approval thereof is necessary or proper for the public service, comfort, convenience and safety.

8. The DTOP understands that the interests of the parties interested in or affected by the affairs of the concessionaire PDMU and the **private aqueduct** services it provides to the community of Palmas del Mar have been considered in this case and have had the opportunity to actively participate.

9. Evaluating the evidence in the record, the DTOP concludes that the amendments requested to increase the rates for water and sanitary sewer services are all necessary and convenient to benefit the community served by PDMU without affecting the financial health of the concessionaire.

10. In light of the above powers and authority, the amendments requested by PDMU are approved to increase rates for water and sanitary sewerage services.

ORDER

In accordance with the Findings of Facts and Conclusions of Law set forth above, the Department of Transportation and Public Works declares the **Application to Amend Franchise Misc. 386, to Increase Rates for Water and Sewer Services in Palmas del Mar.**

GRANTED

Accordingly, **AUTHORIZE** the following **AMENDMENT** to FRANCHISE MISC. 386:

The rates for potable water and sanitary sewer service are modified as follows:

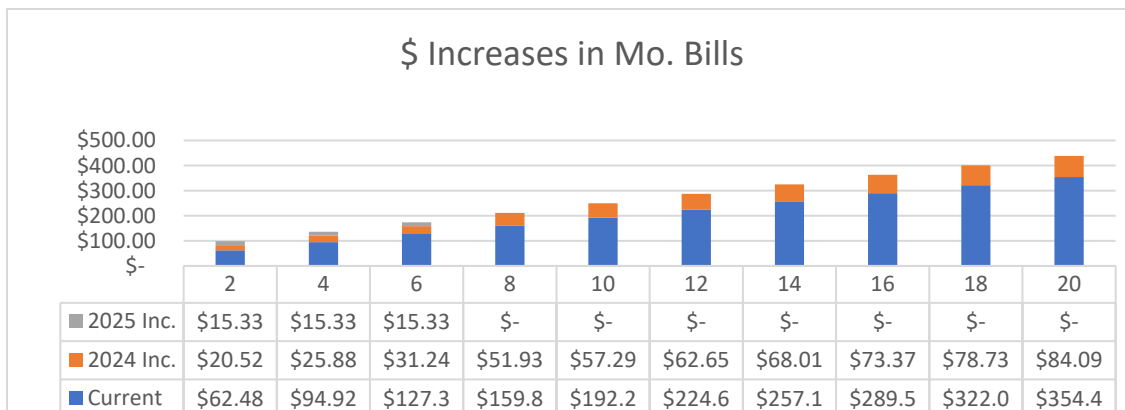
	Current			Proposed			%
	Water	Sewer	Total	Water	Sewer	Total	Increase
Volume Charge / 1,000 gallons							
Residential	\$ 14.78	\$ 1.44	\$ 16.22	\$ 16.80	\$ 2.10	\$ 18.90	17%
Commercial	14.78	1.44	16.22	\$ 18.50	\$ 2.30	\$ 20.80	28%
Monthly Minimum Bill (includes 1st 2,000 gallons)							
Meter Size							
5/8"	43.31	19.17	62.48	59.25	39.08	98.33	57%
1"	53.37	30.57	83.94	94.15	91.08	185.23	121%
1-1/2"	78.52	59.07	137.59	152.31	177.76	330.07	140%
2"	108.68	93.28	201.96	222.10	281.78	503.87	149%
3"	179.11	173.09	352.2	408.21	559.14	967.35	175%
4"	279.72	287.11	566.83	617.58	871.18	1,488.76	163%

a. These rates, under the minimum monthly charge, will continue to give the residential subscriber access to a consumption of up to 2,000 gallons. After that, the residential rates will be \$16.80 for potable water service and \$2.10 for sanitary sewer service for each one thousand (1,000) gallons consumed by the residential subscriber.

b. For the commercial component, the rates for consumption in addition to the 2,000 gallons covered in the minimum charge described above, would be \$18.50 for potable water service and \$2.30 for sanitary sewer service for each one thousand (1,000) gallons consumed by the commercial subscriber.

c. In order to minimize the immediate impact of this revision, PDMU will establish a phased increase for residential subscribers consuming up to 6,000 gallons using a 5/8" meter. This is shown in Figure #1 below:

Figure 1 - Monthly Rate Increase (Phases 1 and 2)



As established by the Franchise, rate increases for water service dictated by the Water and Sewer Authority will be transferred directly to the subscriber, without any additional component to those mentioned above.

Subscriber connection fees, which entitle the subscriber to receive service in a new unit, will be filed separately as part of the franchise amendment for the new economic model for financing new infrastructure.

The above-described amendment supersedes and renders void all language and expressions contained in the Resolutions and Orders relating to Franchise Misc. 386 that are incompatible and/or inconsistent with this amendment.

All PDMU Concessionaire's authorization documents are hereby amended as set forth in this Amendment, which shall prevail over such documents as to the matters discussed herein..

NON-TRANSFERABILITY CLAUSE

This authorization may not be **transferred without prior authorization** from the DTOP.

TERMS AND CONDITIONS

This authorization shall be subject to compliance with the following requirements and conditions:

1. The authorization granted herein may not be alienated or encumbered without the prior authorization of the DTOP.
2. The transfer of the authorization without prior consent of the DTOP will be sufficient cause for the cancellation of this authorization.
3. The concessionaire shall provide its services when reasonably requested and shall maintain the services, as well as the equipment, in an adequate, efficient, fair and reasonable manner, to ensure the proper provision of services and public safety in general.
4. The concessionaire shall be obligated to comply with the rates approved by the DTOP for this service or those previously established by the adopted regulations. It shall request from the DTOP the approval of any new rate or rate modification.

5. This authorization shall be subject to amendment, suspension or repeal by the DTOP when, in its judgment, the public interest so warrants.

6. You must notify the DTOP immediately of any change of name or address.

7. Must provide policy certification annually in favor of the DTOP for at least the amount of \$5,000,000.00.

8. Failure to comply with these requirements will be just cause to cancel this authorization after the right to a public hearing has been granted.

WARNINGS

Provided, that any party affected by this Resolution shall have the right to request the reconsideration thereof at the Secretariat of the Central Office of the Department of Transportation and Public Works within a term of **twenty (20) days** as of the filing of the notice of this Resolution and Order. The petitioner shall notify a copy of such writ by mail to all the parties that have intervened in the proceedings within the same term.

In the alternative, the affected party may go directly to the Court of Appeals by means of an appeal for judicial review, within **thirty (30) days** from the filing of the notice of this Resolution and Order. In this case, the petitioner must notify a copy of the brief filed to all the parties that have intervened in the proceedings, as well as to the Department of Transportation and Public Works and the Department of Justice within the same term available to file the judicial review. Notice may be given by mail. The terms included in these notices are computed on the basis of calendar days.

If the party chooses to request Reconsideration, the DTOP shall consider such motion within fifteen (15) days of the filing thereof. If it rejects it outright or fails to act within fifteen (15) days, the term to request judicial review shall begin to run again from the date of notice of such denial or from the expiration of those fifteen (15) days, as the case may be. If any determination is made on the filed Reconsideration, the thirty (30) day term to request judicial review shall begin

to run from the date on which a copy of the notification of the resolution of the DTOP definitively resolving the Reconsideration is filed in the records. The above resolution shall be issued and filed in the records within ninety (90) days following the filing of the Motion for Reconsideration.

If the DTOP grants the Motion for Reconsideration but fails to take any action in relation thereto within **ninety (90) days** after it has been filed, it shall lose jurisdiction over the same and the term to request judicial review before the Court of Appeals shall begin to run as of the expiration of said **ninety (90) day** term, unless the DTOP by just cause and within those **ninety (90)** days to extend the term to resolve for a period not to exceed **thirty (30)** additional days.

In Fund. Surfrider et al. v. A.R.Pe., 2010 TSPR 37, the High Forum reiterated the distinction between being a party to the administrative process and being a party entitled to seek judicial review of the final administrative determination issued by the agency. In other words, not everyone who participates in the administrative proceeding has standing to be a party to an appeal for judicial review. Board Dir. Portofino v. P.D.C.M., 173 D.P.R. 455, 470-471 (2008). (Emphasis supplied).

REGISTER AND NOTIFY with a copy of this Resolution and Order to the petitioning parties and to the Director of the Directorate of Excavations, Demolitions and Pipelines.

It is so agreed and ordered by the Secretary of the Department of Transportation and Public Works, in San Juan, Puerto Rico, on this the day of August 6, 2024.

SIGNED BY

Ing. Eileen M. Vélez Vega
Secretaria-DTOP

NOTIFICATION

I HEREBY CERTIFY that, on this day of today, file a copy of this Resolution and Order and send a true and accurate copy to by e-mail to: **PDM Utility Corporation** P/C of Atty. Juan

Carlos Gomez Escarce to his email jcg@tcm.law, **Palmas del Mar Properties, Inc** P/C of Atty.

Harry O. Cook and/or to Atty. Diego R. Meléndez Apellaniz to his email drma@mcvpr.com.

In San Juan, Puerto Rico, this day of August 6, 2024.

SIGNED BY

Alma Gómez Vizcarrondo
Asistente Administrativo

NOTE: This is an unofficial translation of the original Water Rate Revision Resolution, issued by the Department of Transportation and Public Works (“DTOP”) on August 6, 2024. Translation has been revised by PDM Utility Corporation’s legal counselors: Toro, Colón, Mullet, P.S.C.