

## **RESOLUTION 2010/2011 002**

### **TITLE: TWSD AND PRC JURISDICTION**

**WHEREAS, NMSA 1978 73-21-55C (2004) states “If the board of directors has not elected to become subject to the jurisdiction of the public regulation commission as provided in subsection B of this section, it shall nevertheless file with the commission any rates, tolls and charges proposed by the board, which shall be subject to approval by the commission if twenty-five of the taxpaying electors of the district or five percent of the taxpaying electors, of the district whichever is less, file a petition protesting the rates, tolls or charges with the commission within thirty days after the board proposes the rates. Upon filing of such a petition the commission shall hold a hearing pursuant to rules that it shall promulgate to implement this subsection.” and,**

**WHEREAS, in Case No. 04-00321 the PRC reviewed TWSD proposed rates upon the filing of sufficient protests under the provisions of NMSA 73-21-55C (2004) which only applies to districts which have not elected to become subject to the jurisdiction of the public regulation commission and,**

**WHEREAS, NMSA 73-21-55 was amended by the legislature on June 19, 2009 removing all references to the PRC regarding the procedure for protesting rate adjustments and transferred that responsibility to the District Courts and,**

**WHEREAS, the PRC Hearing Examiner in Case No. 10-00164-UT stated “TWSD is not required to affirmatively elect by resolution to not be subject to Commission jurisdiction. Rather TWSD is not subject to Commission jurisdiction unless it affirmatively elects to become subject to the jurisdiction of the commission and to terms of the Public Utility Act. No evidence shows that it has done so.” and,**

**Whereas, an INSPECTION OF PUBLIC RECORDS ACT request dated September 2, 2010 asking for “any and all resolutions adopted by the board of directors in which it states that it elects to become subject to the jurisdiction of the Public Regulation Commission” resulted in no documents being produced.**

**BE IT THEREFORE RESOLVED, that the Board of Directors of the Timberon Water and Sanitation District has not elected by resolution adopted by its Board of Directors to become subject to the jurisdiction of the Public Regulation Commission and therefore, it has never been, and is not now, subject to the jurisdiction of the Public Regulation Commission or the terms and provisions of the Public Utility Act.**

**ADOPTED IN A SPECIAL SESSION BY AN ACT OF THE BOARD OF  
DIRECTORS ON THIS 10<sup>TH</sup> DAY OF SEPTEMBER, 2010**

**Attest: \_\_\_\_\_  
Burt Rubinowitz Chairman of the Board**

**Date: \_\_\_\_\_**

**Attest: \_\_\_\_\_  
Charlie Ross Secretary of the Board**

**Date: \_\_\_\_\_**