

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS.

Subchapter A. GENERAL PROVISIONS.

§24.3. Definitions of Terms.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

- (1) **Acquisition adjustment --**
 - (A) The difference between:
 - (i) the lesser of the purchase price paid by an acquiring utility or the current depreciated replacement cost of the plant, property, and equipment comparable in size, quantity, and quality to that being acquired, excluding customer contributed property, less accumulated depreciation; and
 - (ii) the original cost of the plant, property, and equipment being acquired, excluding customer contributed property, less accumulated depreciation.
 - (B) A positive acquisition adjustment results when subparagraph (A)(i) of this paragraph is greater than subparagraph (A)(ii) of this paragraph.
 - (C) A negative acquisition adjustment results when subparagraph (A)(ii) of this paragraph is greater than subparagraph (A)(i) of this paragraph.
- (2) **Active connections --** Water or sewer connections currently being used to provide retail water or sewer service, or wholesale service.
- (3) **ADFIT --** Accumulated deferred federal income tax -- The amount of income-tax deferral, typically reflected on the balance sheet, produced by deferring the payment of federal income taxes by using tax-advantageous methods such as accelerated depreciation.
- (4) **Affected county --** A county to which Local Government Code, Chapter 232, Subchapter B, applies.
- (5) **Affected person --** Any landowner within an area for which an application for a new or amended certificate of public convenience and necessity is filed; any retail public utility affected by any action of the regulatory authority; any person or corporation whose utility service or rates are affected by any proceeding before the regulatory authority; or any person or corporation that is a competitor of a retail public utility with respect to any service performed by the retail public utility or that desires to enter into competition.
- (6) **Affiliated interest or affiliate --**
 - (A) any person or corporation owning or holding directly or indirectly 5.0% or more of the voting securities of a utility;
 - (B) any person or corporation in any chain of successive ownership of 5.0% or more of the voting securities of a utility;
 - (C) any corporation 5.0% or more of the voting securities of which is owned or controlled directly or indirectly by a utility;
 - (D) any corporation 5.0% or more of the voting securities of which is owned or controlled directly or indirectly by any person or corporation that owns or controls directly or indirectly 5.0% or more of the voting securities of any utility or by any person or corporation in any chain of successive ownership of 5.0% of those utility securities;
 - (E) any person who is an officer or director of a utility or of any corporation in any chain of successive ownership of 5.0% or more of voting securities of a public utility;
 - (F) any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a utility or over which a utility exercises such control or that is under common control with a utility, such control being the possession directly or indirectly of the power to direct or cause the direction of the management and policies of another, whether that power is established through ownership or voting of securities or by any other direct or indirect means; or
 - (G) any person or corporation that the commission, after notice and hearing, determines is exercising substantial influence over the policies and action of the utility in conjunction

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with one or more persons or corporations with which they are related by ownership or blood relationship, or by action in concert, that together they are affiliated within the meaning of this section, even though no one of them alone is so affiliated.

- (7) **Agency** -- Any state board, commission, department, or officer having statewide jurisdiction (other than an agency wholly financed by federal funds, the legislature, the courts, the Texas Department of Insurance Division of Workers' Compensation, and institutions for higher education) which makes rules or determines contested cases.
- (8) **Allocations** -- For all retail public utilities, the division of plant, revenues, expenses, taxes, and reserves between municipalities, or between municipalities and unincorporated areas, where such items are used for providing water or sewer utility service in a municipality or for a municipality and unincorporated areas. A non-municipal allocation is the division of plant, revenues, expenses, taxes and reserves between affiliates, jurisdictions, rate regions, business units, functions, or customer classes defined within a retail public utility's operations for all retail public utilities and affiliates.
- (9) **Amortization** -- The gradual extinguishment of an amount in an account by distributing the amount over a fixed period (such as over the life of the asset or liability to which it applies).
- (10) **Annualization** -- An adjustment to bring a utility's accounts to a 12-month level of activity.
- (11) **Base rate** -- The portion of a consumer's utility bill that is paid for the opportunity to receive utility service, which does not vary due to changes in utility service consumption patterns.
- (12) **Billing period** -- The usage period between meter reading dates for which a bill is issued or in nonmetered situations, the period between bill issuance dates.
- (13) **Block rates** -- A rate structure set by using blocks, typically inclining cost for increased usage, which changes the cost per 1,000 gallons as usage increases to the next block.
- (14) **Certificate of Convenience and Necessity (CCN)** -- A permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer utility service to a specified geographic area. **Certificate** or **Certificate of Public Convenience and Necessity** have the same meaning.
- (15) **Class A Utility** -- A public utility that provides retail water or sewer utility service to 10,000 or more taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.
- (16) **Class B Utility** -- A public utility that provides retail water or sewer utility service to 500 or more taps or active connections but fewer than 10,000 taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.
- (17) **Class C Utility** -- A public utility that provides retail water or sewer utility service to fewer than 500 taps or active connections. A Class C utility filing an application under TWC §13.1871 shall be subject to all requirements applicable to Class B utilities filing an application under TWC §13.1871. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.
- (18) **Commission** -- The Public Utility Commission of Texas or a presiding officer, as applicable.
- (19) **Corporation** -- Any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers and privileges of corporations not possessed by individuals or partnerships, but shall not include municipal corporations unless expressly provided otherwise in the TWC.
- (20) **Customer** -- Any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency provided with services by any retail public utility.
- (21) **Customer class** -- A description of utility service provided to a customer that denotes such characteristics as nature of use or type of rate. For rate-setting purposes, a group of customers with similar cost-of-service characteristics that take utility service under a single set of rates.

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- (22) **Customer service line or pipe** -- The pipe connecting the water meter to the customer's point of consumption or the pipe that conveys sewage from the customer's premises to the service provider's service line.
- (23) **District** -- District has the meaning assigned to it by TWC §49.001(a).
- (24) **Facilities** -- All the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility.
- (25) **Financial assurance** -- The demonstration that sufficient or adequate financial resources exist to operate and manage the utility and to provide continuous and adequate service to the utility's service area and/or requested area.
- (26) **Functional cost category** -- Costs related to a particular operational function of a utility for which annual operations & maintenance expenses and utility plant investment records are maintained.
- (27) **Functionalization** -- The assignment or allocation of costs to utility functional cost categories.
- (28) **General rate revenue** -- A rate or the associated revenues designed to recover the cost of service other than certain costs separately identified and recovered through a pass-through or any specific rate such as a surcharge. For water and wastewater utilities, rates typically include the base rate and gallonage rate.
- (29) **Inactive connections** -- Water or wastewater connections tapped to the applicant's utility and that are not currently receiving service from the utility.
- (30) **Incident of tenancy** -- Water or sewer service, provided to tenants of rental property, for which no separate or additional service fee is charged other than the rental payment.
- (31) **Intervenor** -- A person, other than the applicant, respondent, or the commission staff representing the public interest, who is permitted by this chapter or by ruling of the presiding officer, to become a party to a proceeding.
- (32) **Known and measurable (K&M)** -- Verifiable on the record as to amount and certainty of effectuation. Reasonably certain to occur within 12 months of the end of the test year.
- (33) **Landowner** -- An owner or owners of a tract of land including multiple owners of a single deeded tract of land as shown on the appraisal roll of the appraisal district established for each county in which the property is located.
- (34) **License** -- The whole or part of any commission permit, certificate, registration, or similar form of permission required by law.
- (35) **Licensing** -- The commission process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license, certificates of convenience and necessity, or any other authorization granted by the commission in accordance with its authority under the TWC.
- (36) **Main** -- A pipe operated by a utility service provider that is used for transmission or distribution of water or to collect or transport sewage.
- (37) **Mandatory water use reduction** -- The temporary reduction in the use of water imposed by court order, government agency, or other authority with appropriate jurisdiction. This does not include water conservation measures that seek to reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling or reuse of water so that a water supply is made available for future or alternative uses.
- (38) **Member** -- A person who holds a membership in a water supply or sewer service corporation and who is a record owner of a fee simple title to property within a water supply or sewer service corporation's service area, or a person who is granted a membership and who either currently receives or will be eligible to receive water or sewer utility service from the corporation. In determining member control of a water supply or sewer service corporation, a person is entitled to only one vote regardless of the number of memberships the person owns.

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- (39) **Membership fee** -- A fee assessed each water supply or sewer service corporation service applicant that entitles the applicant to one connection to the water or sewer main of the corporation. The amount of the fee is generally defined in the corporation's bylaws and payment of the fee provides for issuance of one membership certificate in the name of the applicant, for which certain rights, privileges, and obligations are allowed under said bylaws. For purposes of TWC §13.043(g), a membership fee is a fee not exceeding approximately 12 times the monthly base rate for water or sewer service or an amount that does not include any materials, labor, or services required for or provided by the installation of a metering device for the delivery of service, capital recovery, extension fees, buy-in fees, impact fees, or contributions in aid of construction.
- (40) **Multi-jurisdictional** -- A utility that provides water and/or wastewater service in more than one state, country, or separate rate jurisdiction by its own operations, or through an affiliate.
- (41) **Municipality** -- A city, existing, created, or organized under the general, home rule, or special laws of this state.
- (42) **Municipally owned utility** -- Any retail public utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.
- (43) **Net Book Value** -- The amount of the asset that has not yet been recovered through depreciation. It is the original cost of the asset minus accumulated depreciation.
- (44) **Nonfunctioning system or utility** -- A system that is operating as a retail public utility that is required to have a CCN and is operating without a CCN; or a retail public utility under supervision in accordance with §24.353 of this title (relating to Supervision of Certain Utilities); or a retail public utility under the supervision of a receiver, temporary manager, or that has been referred for the appointment of a temporary manager or receiver, in accordance with §24.355 of this title (relating to Operation of Utility that Discontinues Operation or Is Referred for Appointment of a Receiver) and §24.357 of this title (relating to Operation of a Utility by a Temporary Manager).
- (45) **Person** -- Includes natural persons, partnerships of two or more persons having a joint or common interest, mutual or cooperative associations, water supply or sewer service corporations, and corporations.
- (46) **Point of use or point of ultimate use** -- The primary location where water is used or sewage is generated; for example, a residence or commercial or industrial facility.
- (47) **Potable water** -- Water that is used for or intended to be used for human consumption or household use.
- (48) **Potential connections** -- Total number of active plus inactive connections.
- (49) **Premises** -- A tract of land or real estate including buildings and other appurtenances thereon.
- (50) **Protestor** -- A person who is not a party to the case who submits oral or written comments. A person classified as a protestor does not have rights to participate in a proceeding other than by providing oral or written comments.
- (51) **Public utility** -- The definition of public utility is that definition given to a water and sewer utility in this subchapter.
- (52) **Purchased sewage treatment** -- Sewage treatment purchased from a source outside the retail public utility's system to meet system requirements.
- (53) **Purchased water** -- Raw or treated water purchased from a source outside the retail public utility's system to meet system demand requirements.
- (54) **Rate** -- Includes every compensation, tariff, charge, fare, toll, rental, and classification or any of them demanded, observed, charged, or collected, whether directly or indirectly, by any retail public utility, or water or sewer service supplier, for any service, product, or commodity described in TWC §13.002(23), and any rules, regulations, practices, or contracts affecting any such compensation, tariff, charge, fare, toll, rental, or classification.

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- (55) **Rate region** -- An area within Texas for which the applicant has set or proposed uniform tarified rates by customer class.
- (56) **Ratepayer** -- Each person receiving a separate bill shall be considered as a ratepayer, but no person shall be considered as being more than one ratepayer notwithstanding the number of bills received. A complaint or a petition for review of a rate change shall be considered properly signed if signed by any person, or spouse of any such person, in whose name utility service is carried.
- (57) **Reconnect fee** -- A fee charged for restoration of service where service has previously been provided. It may be charged to restore service after disconnection for reasons listed in §24.167 of this title (relating to Discontinuance of Service) or to restore service after disconnection at the customer's request.
- (58) **Requested area** -- The area that a petitioner or applicant seeks to obtain, add to, or remove from a retail public utility's certificated service area.
- (59) **Retail public utility** -- Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.
- (60) **Retail water or sewer utility service** -- Potable water service or sewer service, or both, provided by a retail public utility to the ultimate consumer for compensation.
- (61) **Return on invested capital** -- The rate of return times invested capital.
- (62) **Service** -- Any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties under the TWC to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities.
- (63) **Service area** -- Area to which a retail public utility is obligated to provide retail water or sewer utility service.
- (64) **Service line or pipe** -- A pipe connecting the utility service provider's main and the water meter or for sewage, connecting the main and the point at which the customer's service line is connected, generally at the customer's property line.
- (65) **Sewage** -- Ground garbage, human and animal, and all other waterborne type waste normally disposed of through the sanitary drainage system.
- (66) **Stand-by fee** -- A charge imposed on unimproved property for the availability of water or sewer service when service is not being provided.
- (67) **Tap fee** -- A tap fee is the charge to new customers for initiation of service where no service previously existed. A tap fee for water service may include the cost of physically tapping the water main and installing meters, meter boxes, fittings, and other materials and labor. A tap fee for sewer service may include the cost of physically tapping the main and installing the utility's service line to the customer's property line, fittings, and other material and labor. Water or sewer taps may include setting up the new customer's account, and allowances for equipment and tools used. Extraordinary expenses such as road bores and street crossings and grinder pumps may be added if noted on the utility's approved tariff. Other charges, such as extension fees, buy-in fees, impact fees, or contributions in aid of construction (CIAC) are not to be included in a tap fee.
- (68) **Tariff** -- The schedule of a retail public utility containing all rates, tolls, and charges stated separately by type or kind of service and the customer class, and the rules and regulations of the retail public utility stated separately by type or kind of service and the customer class.
- (69) **TCEQ** -- Texas Commission on Environmental Quality.
- (70) **Temporary rate for services provided for a nonfunctioning system** -- A temporary rate for a retail public utility that takes over the provision of service for a nonfunctioning retail public water or sewer utility service provider.
- (71) **Temporary water rate provision for mandatory water use reduction** -- A provision in a utility's tariff that allows a utility to adjust its rates in response to mandatory water use reduction.

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- (72) **Test year** -- The most recent 12-month period, beginning on the first day of a calendar or fiscal year quarter, for which operating data for a retail public utility are available.
- (73) **Tract of land** -- An area of land that has common ownership and is not severed by other land under different ownership, whether owned by government entities or private parties; such other land includes roads and railroads. A tract of land may be acquired through multiple deeds or shown in separate surveys.
- (74) **TWC** -- Texas Water Code.
- (75) **Utility** -- The definition of utility is that definition given to water and sewer utility in this subchapter.
- (76) **Water and sewer utility** -- Any person, corporation, cooperative corporation, affected county, or any combination of those persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the production, transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.
- (77) **Water supply or sewer service corporation** -- Any nonprofit corporation organized and operating under TWC chapter 67, that provides potable water or sewer service for compensation and that has adopted and is operating in accordance with bylaws or articles of incorporation which ensure that it is member-owned and member-controlled. The term does not include a corporation that provides retail water or sewer utility service to a person who is not a member, except that the corporation may provide retail water or sewer utility service to a person who is not a member if the person only builds on or develops property to sell to another and the service is provided on an interim basis before the property is sold. For purposes of this chapter, to qualify as member-owned, member-controlled a water supply or sewer service corporation must also meet the following conditions:
- (A) All members of the corporation meet the definition of “member” under this section, and all members are eligible to vote in those matters specified in the articles and bylaws of the corporation. Payment of a membership fee in addition to other conditions of service may be required provided that all members have paid or are required to pay the membership fee effective at the time service is requested.
 - (B) Each member is entitled to only one vote regardless of the number of memberships owned by that member.
 - (C) A majority of the directors and officers of the corporation must be members of the corporation.
 - (D) The corporation’s bylaws include language indicating that the factors specified in subparagraphs (A) - (C) of this paragraph are in effect.
- (78) **Water use restrictions** -- Restrictions implemented to reduce the amount of water that may be consumed by customers of the utility due to emergency conditions or drought.
- (79) **Wholesale water or sewer service** -- Potable water or sewer service, or both, provided to a person, political subdivision, or municipality who is not the ultimate consumer of the service.