

PROJECT NO. 45112

PUC RULEMAKING PROCEEDING	§	PUBLIC UTILITY COMMISSION
TO AMEND CHAPTER 24 FOR	§	
WATER/SEWER PASS THROUGH	§	OF TEXAS
CLAUSES AND SURCHARGE RULES	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §24.21
AS APPROVED AT THE JUNE 9, 2016 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendment to §24.21, relating to Form and Filing of Tariffs. The proposed amendment will update provisions regarding minor tariff changes, pass-through clauses, and surcharges for water and sewer utilities. Project Number 45112 is assigned to this proceeding.

Ms. Debi Loockerman, CPA, Director of Water Rates Analysis in the Water Utility Regulation Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Loockerman has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be to add clarity and simplicity to the rules governing minor tariff changes, pass-through clauses, and surcharges for water and sewer utilities. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Loockerman has also determined that for each year of the first five years the proposed section is in effect, there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Tuesday, August 2, 2016. The request for a public hearing must be received by Monday, July 25, 2016.

Comments on the proposed amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Monday, July 25, 2016. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted by Monday, August 8, 2016. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 45112.

This amendment is proposed under the Texas Water Code Annotated §13.041(b) (West 2008 & Supp. 2015) (TWC), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross Reference to Statutes: TWC §13.041(b).

§24.21. Form and Filing of Tariffs.

(a) **Approved tariff.** A utility may not directly or indirectly demand, charge, or collect any rate or charge, or impose any classifications, practices, rules, or regulations different from those prescribed in its approved tariff filed with the commission or with the municipality exercising original jurisdiction over the utility, except as ~~follows: noted in this subsection.~~

(1) ___ A utility may charge the rates proposed under the Texas Water Code (TWC)~~TWC~~ §13.187 or §13.1871 on or after the proposed effective date, unless the proposed effective date of the proposed rates is suspended or the regulatory authority~~commission~~ sets interim rates.

(2) ___ The regulatory assessment fee required in TWC ~~§5.701(n)~~§5.235(n) does not have to be listed on the utility's approved tariff to be charged and collected but must be included in the tariff at the earliest opportunity.

(3) ___ A person who possesses facilities used to provide retail water utility service or a utility that holds a certificate of public convenience and necessity (CCN) to provide retail water service that enters into an agreement in accordance with TWC §13.250(b)(2), may collect charges for sewer~~wastewater~~ services on behalf of another retail public utility on the same bill with its water charges and shall at the earliest opportunity include a notation on its tariff that it has entered into such an agreement.

(4) ___ A utility may enter into a contract with a county to collect solid waste disposal fees and include those fees on the same bill with its water charges and shall at the earliest opportunity include a notation on its tariff that it has entered into such an agreement.

(b) **Requirements as to size, form, identification, minor changes, and filing of tariffs.**

(1) **Tariffs filed with applications for CCN~~certificates of convenience and necessity~~.**

(A) When applying to obtain or amend a CCN, or to add a new water or sewer system or subdivision to a CCN every tariff with the commission and any regulatory authority with original rate jurisdiction over the utility.

(i)(A) For a utility that is under the original rate jurisdiction of the commission, the tariff shall contain~~Every public utility shall file its tariff with the commission containing~~ schedules of all the utility's~~its~~ rates, tolls, charges, rules, and regulations pertaining to all of its utility service(s)~~service~~ when it applies for a CCN~~certificate of convenience and necessity~~ to operate as a public~~public~~ utility. The tariff must be on the form prescribed by the commission~~the commission prescribes~~ or another form acceptable to the commission.

(ii) For a utility under the original rate jurisdiction of a municipality, the utility must file with the commission a copy of its tariff as approved by the municipality.

(B) Unless the utility is a nonfunctioning utility, if a utility does not currently have a tariff applicable to the area subject to the CCN application (e.g., a subdivision currently being built or proposed), the utility shall file a proposed tariff with the commission. The applicant requesting the new

tariff shall comply with the requirements in §24.105 of this title (relating to Contents of Certificate of Convenience and Necessity Applications).

(C) A utility that is filing a tariff for the first time after obtaining a CCN shall file a rate change application within 18 months from the date service begins in order to adjust the rates to a historic test year with the appropriate regulatory authority and to true up the new tariff rates to the historical test year. An application for a price index rate adjustment pursuant to TWC §13.1872 does not satisfy the requirements of this subparagraph.

(D)(B) Every water supply or sewer service corporation shall file with the commission a complete tariff containing schedules of all its rates, tolls, charges, rules, and regulations pertaining to all of its utility ~~servicesservice~~ when it applies ~~for a certificate of convenience and necessity~~ to operate as a retail public utility and to obtain or amend a CCN.

(2) **Minor tariff changes.** Except for an affected county or a utility under the original rate jurisdiction of a municipality, a public utility's approved tariff may not be changed or amended without commission approval. Minor tariff changes shall not be allowed for any fees charged by affiliates. The addition of a new extension policy to a tariff or modification of an existing extension policy is not a minor tariff change. An affected county may change rates for retail water or sewerwastewater service without commission approval, but shall file a copy of the revised tariff with the commission within 30 days after the effective date of the rate change.

(A) The commission may approve the following minor changes to tariffs:

(i) service rules and policies;

- (ii) changes in fees for customer deposits, meter tests, return check charges, and late charges, provided they do not exceed the maximum allowed by commission rules; ~~the applicable sections~~;
- ~~(iii) implementation of a purchased water or sewage treatment provision, a temporary water rate provision in response to mandatory reductions in water use imposed by a court, government agency, or other authority, or water use fee provision previously approved by the commission;~~
- ~~(iv) surcharges over a time period determined to reflect the change in the actual cost to the utility for sampling costs, commission inspection fees, or as appropriate, other governmental requirements beyond the utility's control;~~
- ~~(iii)(v)~~ addition of the regulatory assessment fee payable to the TCEQ as a separate item or to be included in the currently authorized rate;
- ~~(iv)(vi)~~ addition of a provision allowing a utility to collect retail sewer service wastewater charges in accordance with TWC §13.250(b)(2) or §13.147(d);
- ~~(v)(vii)~~ rate adjustments to implement commission-authorized phased or multi-step rates or downward rate adjustments to reconcile rates with actual costs;
- ~~(viii) addition of a production fee charged by a groundwater conservation district as a separate item calculated by multiplying the customer's~~

~~total consumption, including the number of gallons in the base bill,
by the actual production fee per thousand gallons; or~~

~~(vi)(ix)~~ implementation of an energy cost adjustment clause pursuant to subsection (n) of this section;

~~(vii) implementation or modification of a pass-through provision calculation in a tariff, as provided in subparagraphs (B) - (E) of this paragraph, which is necessary for the correct recovery of the actual charges from pass-through entities, including line loss; or~~

~~(viii) some surcharges as provided in subparagraph (F) of this paragraph.~~

- (B) If a utility has provided proper notice as required in subparagraph (E) of this paragraph, the commission may approve a pass-through provision as a minor tariff change, even if the utility has never had an approved pass-through provision in its tariff. A pass-through provision may not be approved for a charge already included in the utility's cost of service used to calculate the rates approved by the commission in the utility's most recently approved rate change pursuant to TWC §13.187 or TWC §13.1871. A pass-through provision may only include passing through of the actual costs charged to the utility. Only the commission staff or the utility may request a hearing on a proposed pass-through provision or a proposed revision or change to a pass-through provision. A pass-through provision or provisions may be approved in the following situation(s):

~~The addition of an extension policy to a tariff or a change to an existing extension policy does not qualify as a minor tariff change because it must be approved or amended in a rate change application.~~

- ~~(i) A utility that purchases water or sewage treatment and whose rates are under the original jurisdiction of the commission may include a provision in its tariff to pass through to its customers changes in such costs. The provision must specify how it is calculated.~~
- ~~(ii) A utility may pass through a temporary water rate provision implemented in response to mandatory reductions in water use imposed by a court, government agency, or other authority. The provision must specify how the temporary water rate provision is calculated.~~
- ~~(iii) A utility may include the addition of a production fee charged by a groundwater conservation district, including a production fee charged in accordance with a groundwater reduction plan entered in to by a utility in response to a groundwater conservation district production order or rule, as a separate line item in the tariff.~~
- ~~(iv) A utility may pass through the costs of changing its source of water if the source change is required by a governmental entity. The pass-through provision may not be effective prior to the date the conversion begins. The pass-through provision must be calculated using an annual true-up provision.~~

(v) A utility subject to more than one pass-through cost allowable in this section may request approval of an overall combined pass-through provision that includes all allowed pass-through costs to be recovered in one provision pursuant to subparagraph (C) of this paragraph. The twelve calendar months (true-up period) for inclusion in the true-up report must remain constant, e.g. January through December.

(C) A change in the combined pass-through provision may only be implemented once per year. The utility must file a true-up report within one month after the end of the true-up period. The change may be effective in a billing cycle within three months after the end of the true-up period as long as the true-up clearly shows the reconciliation between charges by pass-through entities and collections from the customers, and charges from previous years are reconciled. Only expenses charged by the pass-through provider(s) shall be included in the provision. The true-up report shall include:

(i) a list of all entities charging fees included in the combined pass-through provision, specifying any new entities added to the combined pass-through provision;

(ii) a summary of each charge passed through in the report year, along with documentation verifying the charge assessed and showing the amount the utility paid;

- (iii) a comparison between annual amounts billed by all entities charging fees included in the pass-through provision with amounts billed for the usage by the utility to its customers in the pass-through period;
- (iv) all calculations and supporting documentation;
- (v) a summary report, by year, for the lesser of all years prior or five years prior to the pass-through period showing the same information as in clause (iii) of this subparagraph with a reconciliation to the utility's booked numbers, if there is a difference in any year; and
- (vi) any other documentation or information requested by the commission.

(D) For any pass-through provision granted under this section, all charges approved for recovery of pass-through costs shall be stated separately from all charges by the utility to recover the revenue requirement. Except for a combined pass-through provision, the calculation for a pass-through gallonage rate for a utility with one source of water may be made using the following equation, which is provided as an example: $G + \{G/(1-L)\}$, where G equals the new gallonage charge by source supplier and L equals the line loss reflected as a percentage expressed in decimal format (for example, 8.5% would be expressed as 0.085).

(E) A utility that wishes to revise or implement an approved pass-through provision shall take the following actions prior to the beginning of the billing period in which the revision takes effect:

- (i) submit a written notice to the commission that shall include:

- (I) the affected CCN number(s),
 - (II) a list of the affected subdivision(s), public water system name(s) and corresponding number(s) issued by the TCEQ, and the water quality system name(s) and corresponding number(s) issued by the TCEQ, if applicable,
 - (III) a copy of the notice to the customers,
 - (IV) documentation supporting the stated amounts of any new or modified pass-through costs,
 - (V) historical documentation of line loss for one year,
 - (VI) all calculations and assumptions for any true-up of pass-through costs,
 - (VII) the calculations and assumptions used to determine the new rates, and
 - (VIII) a copy of the pages of the utility's tariff that contain the rates that will change if the utility's application is approved, and
- (ii) e-mail (if the customer has agreed to receive communications electronically), mail, or hand-deliver notice to the utility's customers. Notice may be in the form of a billing insert and must contain:
- (I) the effective date of the change,
 - (II) the present calculation of customer billings,
 - (III) the new calculation of customer billings,

- (IV) an explanation of any corrections to the pass-through formula, if applicable,
- (V) the change in charges to the utility for purchased water or sewer treatment or ground water reduction fee or subsidence, if applicable, and
- (VI) the following language: “This tariff change is being implemented in accordance with the minor tariff changes allowed by 16 Texas Administrative Code §24.21. The cost to you as a result of this change will not exceed the costs charged to your utility.”
- (F) The following provisions apply to surcharges:
- (i) A surcharge is an authorized rate to collect revenues over and above the usual cost of service.
- (ii) If authorized by the commission or the municipality exercising original jurisdiction over the utility, a surcharge to recover the actual increase in costs to the utility may be collected over a specifically authorized time period without being listed on the approved tariff for:
- (I) sampling fees not already recovered by rates;
- (II) inspection fees not already recovered by rates;
- (III) production fees or connection fees not already recovered by rates charged by a groundwater conservation district; or

(IV) other governmental requirements beyond the control of the utility.

(iii) A utility shall use the revenues collected pursuant to a surcharge approved by the commission only for the purposes noted in the order approving the surcharge. A utility shall handle the funds in the manner specified in the order approving the surcharge. The utility may redirect or use the revenues for other purposes only after first obtaining the approval of the commission.

(iv) The commission may require a utility to file periodic and/or final accounting information to show the collection and disbursement of funds collected through an approved surcharge.

(3) Tariff revisions and tariffs filed with rate changes.

(A) If the commission is the regulatory authority, the utility shall file its revisions~~revision~~ with the commission. Each revision must be accompanied by a cover page that contains a list of pages being revised, a statement describing each change, its effect if it is a change in an existing rate, and a statement as to impact on rates of the change by customer class, if any. If a proposed tariff revision constitutes an increase in existing rates of a particular customer class or classes, then the commission may require that notice be given.

(B) Each revision must be accompanied by a copy of the original tariff and a red-lined copy of the proposed tariff revisions clearly showing the proposed changes.~~Symbols for changes. Each proposed tariff sheet accompanying an~~

~~application filed pursuant to TWC §13.187 or §13.1871 shall contain notations in the right hand margin indicating each change made on the sheets. Notations to be used are: (C) to denote a change in regulations; (D) to denote discontinued rates or regulations; (E) to denote the correction of an error made during a revision (the revision which resulted in the error must be one connected to some material contained in the tariff prior to the revision); (I) to denote a rate increase; (N) to denote a new rate or regulation; (R) to denote a rate reduction; and (T) to denote a change in text, but no change in rate or regulation. In addition to symbols for changes, each changed provision in the tariff shall contain a vertical line in the right hand margin of the page, which clearly shows the exact number of lines being changed.~~

- (4) **Rate schedule.** Each rate schedule must clearly state the public water system name(s) and the corresponding identification number(s) issued by the TCEQ or the sewer system name(s) and the corresponding identification number(s) issued by the TCEQ for each discharge permit, territory subdivision, city, and ~~or~~ county in which the schedule is applicable.
- (5) **Tariff pages sheets.** Tariff pages sheets must be numbered consecutively. Each pages sheet must show an ~~effective date, a revision number,~~ section number, pages sheet number, name of the utility, ~~the name of the tariff,~~ and title of the section in a consistent manner. ~~Sheets issued under new numbers must be designated as original sheets. Sheets being revised must show the number of the revision, and the sheet numbers must be the same.~~

- (c) **Composition of tariffs.** A utility's tariff, including those utilities operating within the corporate limits of a municipality, must contain sections setting forth:
- (1) (No change.)
 - (2) a list of the cities, ~~and~~ counties, and ~~subdivision(s)~~ subdivisions in which service is provided, along with the public water system name(s) and corresponding identification number(s) issued by the TCEQ and sewer system names and corresponding discharge permit number(s) issued by the TCEQ to which the tariff applies; ~~or systems, in which service is provided;~~
 - (3) the CCN number(s) ~~certificate of convenience and necessity number~~ under which service is provided;
 - (4) (No change.)
 - (5) the service rules and regulations, including forms of the service agreements, if any, and customer service inspection forms ~~required~~ to be completed as required by the TCEQ; ~~under 30 TAC §290.46(j) (relating to Minimum Acceptable Operating Practices for Public Drinking Water Systems) if the form used deviates from that specified in 30 TAC §290.47(d) (relating to Appendices);~~
 - (6) (No change.)
 - (7) an approved drought contingency plan as required by the TCEQ; ~~30 TAC §288.20 (relating to Drought Contingency Plans for Municipal Uses by Public Water Suppliers);~~ and
 - (8) the forms ~~form~~ of payment to be accepted for utility services.

- (d) **Tariff filings in response to commission orders.** Tariff filings made in response to an order issued by the commission must include a transmittal letter stating that the ~~tariff~~tariffs attached ~~is~~are in compliance with the order, giving the docket number, date of the order, a list of tariff ~~pages~~sheets filed, and any other necessary information. Any service rules proposed in addition to those listed on the commission's ~~model~~tariff form or any modifications of a rule in the ~~model~~tariff must be clearly noted. All tariff ~~pages~~sheets must comply with all other sections in this chapter and must include only changes ordered. The effective date and/or wording of the tariff must comply with the provisions of the order.
- (e) **Availability of tariffs.** Each utility shall make available to the public at each of its business offices and designated sales offices within Texas all of its tariffs currently on file with the commission or regulatory authority, and its employees shall lend assistance to persons requesting information and afford these persons an opportunity to examine any of such tariffs upon request. The utility also shall provide copies of any portion of the tariffs at a reasonable cost to ~~reproduce such tariff for~~ a requesting party.
- (f) **Rejection.** Any tariff filed with the commission and found not to be in compliance with this section ~~shall be~~must be so marked and returned to the utility with a brief explanation of the reasons for rejection.
- (g) **Change by other regulatory authorities.** ~~Tariffs must be filed to reflect changes in rates or regulations set by other regulatory authorities and must include a copy of the order or~~

~~ordinance authorizing the change.~~ Each utility operating within the corporate limits of a municipality exercising original jurisdiction shall file with the commission ~~a copy of its~~ current tariff that has been authorized by the municipality. If changes are made to the utility's tariff for areas under the jurisdiction of the municipality, the utility shall file its tariff reflecting the changes along with the ordinance, resolution or order issued by the municipality to authorize the change.

~~(h) — **Purchased water or sewage treatment provision.**~~

~~(1) — A utility that purchases water or sewage treatment may include a provision in its tariff to pass through to its customers changes in such costs. The provision must specify how it is calculated and affects customer billings.~~

~~(2) — This provision must be approved by the commission in a rate proceeding. A proposed change in the method of calculation of the provision must be approved in a rate proceeding.~~

~~(3) — Once the provision is approved, any revision of a utility's billings to its customers to allow for the recovery of additional costs under the provision may be made only upon issuing notice as required by paragraph (4) of this subsection. The review of a proposed revision is an informal proceeding. Only the commission staff, or the utility may request a hearing on the proposed revision. The recovery of additional costs is defined as an increase in water use fees or in costs of purchased water or sewage treatment.~~

~~(4) — A utility that wishes to revise utility billings to its customers pursuant to an approved purchased water or sewer treatment or water use fee provision to allow~~

~~for the recovery of additional costs shall take the following actions prior to the beginning of the billing period in which the revision takes effect:~~

~~(A) — submit a written notice to the commission; and~~

~~(B) — e-mail (if the customer has agreed to receive communications electronically) or mail notice to the utility's customers. Notice may be in the form of a billing insert and must contain the effective date of the change, the present calculation of customer billings, the new calculation of customer billings, and the change in charges to the utility for purchased water or sewage treatment or water use fees. The notice must include the following language: "This tariff change is being implemented in accordance with the utility's approved (purchased water) (purchased sewer) (water use fee) adjustment clause to recognize (increases) (decreases) in the (water use fee) (cost of purchased) (water) (sewage treatment). The cost of these charges to customers will not exceed the (increased) (decreased) cost of (the water use fee) (purchased) (water) (sewage treatment)."~~

~~(5) — Notice to the commission must include a copy of the notice sent to the customers, proof that the cost of purchased water or sewage treatment has changed by the stated amount, and the calculations and assumptions used to determine the new rates.~~

~~(6) — Purchased water or sewage treatment provisions may not apply to contracts or transactions between affiliated interests.~~

~~(h)~~(i) **Effective date.** The effective date of a tariff change is the date of approval by the regulatory authority~~commission~~, unless otherwise specified by the regulatory authority, in a commission order, or by rule. The effective date of a proposed rate increase under TWC §13.187 or §13.1871 is the proposed date on the notice to customers and the regulatory authority~~commission~~, unless suspended by the regulatory authority~~commission~~.

~~(i)~~(j) **Tariffs filed by water supply or sewer service corporations.** Every water supply or sewer service corporation shall file, for informational purposes only, ~~three~~ complete copies of its tariff showing all rates that are subject to the appellate jurisdiction of the commission and that are in force for any utility service, product, or commodity offered. The tariff must include all rates, rules, and regulations relating to ~~or affecting the rates,~~ utility service or extension of service, the CCN number(s), and all affected counties or cities~~or product, or commodity furnished and shall specify the certificate of convenience and necessity number and in which counties or cities it is effective.~~ If changes are made to the water supply or sewer service corporation's tariff, the water supply or sewer service corporation shall file a copy of the tariff reflecting the changes, along with a cover letter with the effective date of the change. The copies of the tariff shall be filed in conformance with §22.71 of this title (relating to Filing of Pleadings, Documents, and Other Materials) and §22.72 of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission).

~~(k)~~ **Surcharge.**

- ~~(1) — A surcharge is an authorized rate to collect revenues over and above the usual cost of service.~~
- ~~(2) — If specifically authorized for the utility in writing by the commission or the municipality exercising original jurisdiction over the utility, a surcharge to recover the actual increase in costs to the utility may be collected over a specifically authorized time period without being listed on the approved tariff for:~~
- ~~(A) — sampling fees not already included in rates;~~
- ~~(B) — inspection fees not already included in rates;~~
- ~~(C) — production fees or connection fees not already included in rates charged by a groundwater conservation district; or~~
- ~~(D) — other governmental requirements beyond the control of the utility.~~
- ~~(3) — A utility shall use the revenues collected pursuant to a surcharge only for the purposes noted and handle the funds in the manner specified according to the notice or application submitted by the utility to the commission. The utility may redirect or use the revenues for other purposes only after first obtaining the approval of commission.~~

~~(j)(4)~~ **Temporary water rate provision for mandatory water use reduction.**

- (1) A utility's tariff may include a temporary water rate provision that will allow the utility to increase its retail customer rates during periods when a court, government agency, or other authority orders mandatory water use reduction measures that affect the utility customers' use of water service and the utility's water revenues. Implementation of the temporary water rate provision will allow the utility to

~~recover from customers' revenues that the utility would otherwise have lost due to mandatory water use reductions in accordance with the temporary water rate provision approved by the commission. If a utility obtains an alternate water source to replace the required mandatory reduction a portion of its water supply from another unrestricted water source or water supplier during the time the temporary water rate provision is in effect, the rate resulting from implementation of the temporary water rate provision must be adjusted to prevent over-recovery account for the supplemental water supply and to limit over recovery of revenues from customers. A temporary water rate provision may not be implemented by a utility if an there exists an available, unrestricted, alternative water supply that the utility can use to is immediately available replace, without additional cost, the water made unavailable because of the action requiring a mandatory reduction of use of the affected water supply.~~

- (2) The temporary water rate provision must be approved by the regulatory authority having original jurisdiction~~commission~~ in a rate proceeding before it may be included in the utility's approved tariff or implemented as provided in this subsection. A proposed change in the temporary water rate provision must be approved in a rate proceeding. A utility that has filed a rate change within the last 12 months may file a request for the limited purpose of obtaining a temporary water rate provision.
- (3) A utility may request a temporary water rate provision for mandatory water use reduction using the formula in this paragraph to recover 50% or less of the revenues that would otherwise have been lost due to mandatory water use reduction ~~through~~

~~a limited rate proceeding.~~ The formula for a temporary water rate provision for mandatory water use reduction under this paragraph is:

Figure: 16 TAC §24.21(j)(3)

- (A) The utility shall file a temporary water rate provision for mandatory water use reduction ~~request~~application and provide customer notice as required by the ~~regulatory authority~~commission, but is not required to provide complete financial data to support its existing rates. Notice must include a statement of when the temporary water rate provision would be implemented, the customer class(es) affected, the rates affected, information on how to protest and/or intervene in the rate change, the address of the ~~regulatory authority~~commission, the time frame for protests, and any other information that is required by the ~~regulatory authority~~commission ~~in the temporary water rate application~~. The utility's existing rates are not subject to review in ~~this~~the proceeding and the utility is only required to support the need for the temporary rate. A request for a temporary water rate provision for mandatory water use reduction under this paragraph is not considered a statement of intent to increase rates subject to the 12-month limitation in §24.23 of this title (relating to Time Between Filings).
- (B) (No change.)

- (4) A utility may request a temporary water rate provision for mandatory water use reduction using the formula in paragraph (3) of this subsection or any other method acceptable to the regulatory authority~~commission~~ to recover up to 100% of the revenues that would otherwise have been lost due to mandatory water use reductions.
- (A) (No change.)
- (B) The utility shall establish that the projected revenues that will be generated by the temporary water rate provision for mandatory water use reduction are required by the utility to pay reasonable and necessary expenses that will be incurred by the utility during the time mandatory water use reductions are in effect; that the rate of return granted by the regulatory authority~~commission~~ in the utility's last rate case does not adequately compensate the utility for the foreseeable risk that mandatory water use reductions will be ordered; and that revenues generated by existing rates do not exceed reasonable cost of service.
- (5) The utility may place the temporary water rate provision into effect only after:
- (A) ~~if the temporary water provision~~ has been approved by the regulatory authority~~commission~~ and included in the utility's approved tariff in a prior rate proceeding;
- (B)-(C)(No change.)
- (6) The utility may readjust its temporary water rate provision~~rates using the temporary water rate provision for mandatory water use reduction as necessary~~ to respond to modifications or changes to the original required~~order requiring mandatory~~ water

use reductions by reissuing notice as required by paragraph (7) of this subsection. If the commission is the regulatory authority, only~~Only~~ the commission or the utility may request a hearing on the proposed implementation.

(7) A utility ~~implementing that wishes to place~~ a temporary water rate for mandatory water use reduction ~~into effect~~ shall take the following actions prior to the beginning of the billing period in which the temporary water rate provision~~for mandatory water use reduction~~ takes effect:

- (A) submit a written notice, including a copy of the notice received from the court, government agency, or other authority requiring the reduction in water use, to the regulatory authority~~commission~~; and
- (B) e-mail, if the customer has agreed to receive communications electronically, or mail notice to the utility's customers. Notice may be in the form of a billing insert and must contain the effective date of the implementation and the new rate the customers will pay after the temporary water rate provision is implemented. If the commission is the regulatory authority, the~~The~~ notice must include the following language: "This rate change is being implemented in accordance with the temporary water rate provision approved by the Public Utility Commission of Texas to recognize the loss of revenues due to mandatory water use reduction ordered by (name of entity issuing order). The new rates will be effective on (date) and will remain in effect until the mandatory water use reductions are lifted or expired. The purpose of the rate is to ensure the financial integrity of the utility. The utility will recover through the rate (the percentage authorized

by the temporary rate) % of the revenues the utility would otherwise have lost due to mandatory water use reduction by increasing the volume charge from (\$ per 1,000 gallons to \$ per 1,000 gallons).”

- (8) A utility shall stop charging a temporary water rate provision as soon as is practical after the order that required mandatory water use reduction is ended, but in no case later than the end of the billing period that was in effect when the order was ended. The utility shall notify its customers of the date that the temporary water rate provision ends and that its rates will return to the level authorized before the temporary water rate provision was implemented. The notice provided to customers regarding the end of the temporary water rate provision shall be filed with the commission.
- (9) If the regulatory authority~~commission~~ initiates an inquiry into the appropriateness or the continuation of a temporary water rate provision, it may establish the effective date of its decision on or after the date the inquiry is filed.

~~(k)(m)~~ **Multiple system consolidation.** Except as otherwise provided in subsection ~~(m)(e)~~ of this section, a utility may consolidate its tariff and rate design for more than one system if:

(1)-(2) (No change.)

~~(l)(n)~~ **Regional rates.** The regulatory authority~~commission~~, where practicable, shall consolidate the rates by region for applications submitted under TWC §13.187 or §13.1871 with a consolidated tariff and rate design for more than one system.

~~(m)(e)~~ **Exemption.** Subsection ~~(k)(m)~~ of this section does not apply to a utility that provided service in only 24 counties on January 1, 2003.

~~(n)(p)~~ **Energy cost adjustment clause.**

- (1) A utility that purchases energy (electricity or natural gas) that is necessary for the provision of retail water or sewer service may request the inclusion of an energy cost adjustment clause in its tariff to allow the utility to adjust its rates to reflect increases and decreases in documented energy costs.
- (2) A utility that requests the inclusion of an energy cost adjustment clause in its tariff shall file ~~a request~~an application with the commission. The utility shall also give notice of the proposed energy cost adjustment clause by mail, either separately or accompanying customer billings, e-mail or by hand delivery to all affected utility customers at least 60 days prior to the proposed effective date. Proof of notice in the form of an affidavit stating that proper notice was delivered to affected customers and stating the ~~date(s)~~dates of such delivery shall be filed with the commission by the ~~applicant~~utility as part of the ~~request~~application. Notice must be provided on the form prescribed by the commission for a rate~~included in the commission's application package~~ filed under TWC §13.187 or §13.1871 and must contain the following information:
 - (A) the utility name and address, a description of how the increase or decrease in energy costs will be calculated, the effective date of the proposed change, and the ~~class(es)~~classes of utility customers affected. The effective date of the proposed energy cost adjustment clause must be the first day of a billing

period, which should correspond to the day of the month when meters are typically read, and the clause may not apply to service received before the effective date of the clause;

(B) (No change.)

(C) any other information that is required by the commission application form.

(3) The commission's review of the utility's request application is an uncontested matter not subject to a contested case hearing. However, the commission shall hold an uncontested public meeting ~~on the application~~ if requested by a member of the legislature who represents the area served by the utility or if the commission determines that there is substantial public interest in the matter.

(4) Once an energy cost adjustment clause has been approved, documented changes in energy costs must be passed through to the utility's customers within a reasonable time. The pass-through, ~~pass through~~, whether an increase or decrease, shall be implemented on at least an annual basis, unless the commission determines a special circumstance applies. Anytime changes are being made using this provision, notice shall be provided as required by paragraph (5) of this subsection. Copies of notices to customers shall be filed with the commission.

(5) Before a utility implements a change in its energy cost adjustment clause as required by paragraph (4) of this subsection, the utility shall take the following actions prior to the beginning of the billing period in which the implementation takes effect:

(A) (No change.)

- (B) e-mail, if the customer has agreed to receive communications electronically, mail, either separately or accompanying customer billings, or hand deliver notice to the utility's affected customers. Notice must contain the effective date of change and the increase or decrease in charges to the utility for documented energy costs. The notice must include the following language: "This tariff change is being implemented in accordance with the utility's approved energy cost adjustment clause to recognize (increases) (decreases) in the documented energy costs. The cost of these charges to customers will not exceed the (increase) (decrease) in documented energy costs."
- (6) The commission may suspend the adoption or implementation of an energy cost adjustment clause if the utility has failed to properly file the request~~complete the application~~ or has failed to comply with the notice requirements or proof of notice requirements. If the utility cannot clearly demonstrate how the clause is calculated, the increase or decrease in documented energy costs or how the increase or decrease in documented energy costs will affect rates, the commission may suspend the adoption or implementation of the clause until the utility provides additional documentation requested by the commission. If the commission suspends the adoption or implementation of the clause, the adoption or implementation will be effective on the date specified by the commission.
- (7)-(8) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 9TH DAY OF JUNE 2016 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**