

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

Subchapter G. CERTIFICATES OF CONVENIENCE AND NECESSITY.

§24.114. Requirement to Provide Continuous and Adequate Service.

- (a) Any retail public utility which possesses or is required by law to possess a certificate of convenience and necessity or a person who possesses facilities used to provide utility service must provide continuous and adequate service to every customer and every qualified applicant for service whose primary point of use is within the certificated area and may not discontinue, reduce or impair utility service except for:
- (1) nonpayment of charges for services provided by the certificate holder or a person who possesses facilities used to provide utility service;
 - (2) nonpayment of charges for sewer service provided by another retail public utility under an agreement between the retail public utility and the certificate holder or a person who possesses facilities used to provide utility service or under a commission order;
 - (3) nonuse; or
 - (4) other similar reasons in the usual course of business without conforming to the conditions, restrictions, and limitations prescribed by the commission.
- (b) After notice and hearing, the commission may:
- (1) order any retail public utility that is required by law to possess a certificate of public convenience and necessity or any retail public utility that possesses a certificate of public convenience and necessity and is located in an affected county as defined in TWC §16.341, to:
 - (A) provide specified improvements in its service in a defined area if:
 - (i) service in that area is inadequate as set forth in §24.93 and §24.94 of this title (relating to Adequacy of Water Utility Service; and Adequacy of Sewer Service); or
 - (ii) is substantially inferior to service in a comparable area; and
 - (iii) it is reasonable to require the retail public utility to provide the improved service; or
 - (B) develop, implement, and follow financial, managerial, and technical practices that are acceptable to the commission to ensure that continuous and adequate service is provided to any areas currently certificated to the retail public utility if the retail public utility has not provided continuous and adequate service to any of those areas and, for a utility, to provide financial assurance of the retail public utility's ability to operate the system in accordance with applicable laws and rules as specified in §24.11 of this title (relating to Financial Assurance), or as specified by the commission. The obligation to obtain financial assurance under this chapter does not relieve an applicant from any requirements to obtain financial assurance in satisfaction of another state agency's rules;
 - (2) order two or more public utilities or water supply or sewer service corporations to establish specified facilities for interconnecting service after TCEQ approves the interconnecting service pursuant to 30 TAC Chapter 290 (relating to Public Drinking Water) or 30 TAC 217 (relating to Design Criteria for Domestic Wastewater Systems);
 - (3) order a public utility or water supply or sewer service corporation that has not demonstrated that it can provide continuous and adequate service from its drinking water source or sewer treatment facility to obtain service sufficient to meet its obligation to provide continuous and adequate service on at least a wholesale basis from another consenting utility service provider; or
 - (4) issue an emergency order, with or without a hearing, under §24.14 of this title (relating to Emergency Orders).
- (c) If the commission has reason to believe that improvements and repairs to a water or sewer service system are necessary to enable a retail public utility to provide continuous and adequate service in any portion of its service area and the retail public utility has provided financial assurance under Texas Health and Safety

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Code, §341.0355, or under this chapter, the commission, after providing to the retail public utility notice and an opportunity to be heard by the commissioners at a commission meeting, may:

- (1) immediately order specified improvements and repairs to the water or sewer system, the costs of which may be paid by the financial assurance in an amount determined by the commission not to exceed the amount of the financial assurance. The order requiring the improvements may be an emergency order if it is issued after the retail public utility has had an opportunity to be heard by the commissioners at a commission meeting; and
- (2) require a retail public utility to obligate additional money to replace the financial assurance used for the improvements.