

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

Subchapter H. CERTIFICATES OF CONVENIENCE AND NECESSITY.

§24.243. Purchase of Voting Stock or Acquisition of a Controlling Interest in a Utility.

- (a) A utility may not purchase voting stock, and a person may not acquire a controlling interest, in a utility doing business in this state unless the utility or person files a written application with the commission no later than the 61st day before the date on which the transaction is to occur. A controlling interest is defined as
 - (1) a person or a combination of a person and the person's family members that possess at least 50% of a utility's voting stock; or
 - (2) a person that controls at least 30% of a utility's voting stock and is the largest stockholder.
- (b) A person acquiring a controlling interest in a utility shall be required to demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and to the person's certificated service area, if any.
- (c) If the person acquiring a controlling interest cannot demonstrate adequate financial capability, the commission may require the person to provide financial assurance to ensure continuous and adequate utility service is provided to the service area. The commission shall set the amount of financial assurance. The form of the financial assurance shall be as specified in §24.11 of this title (relating to Financial Assurance). 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.
- (d) The commission may require a public hearing on the transaction if a criterion prescribed by §24.239(j) of this title (relating to Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental) applies.
- (e) Unless the commission requires that a public hearing be held, the purchase or acquisition may be completed as proposed:
 - (1) at the end of the 60 day period; or
 - (2) at any time after the commission notifies the person or utility that a hearing will not be requested.
- (f) If a hearing is required or if the person or utility fails to make the application to the commission as required, the purchase of voting stock or acquisition of a controlling interest may not be completed unless the commission determines that the proposed transaction serves the public interest. A purchase or acquisition that is not completed in accordance with the provisions of this section is void.
- (g) The utility or person shall notify the commission within 30 days after the date that the transaction is completed.
- (h) Within 30 days of the commission order that allows a utility's purchase of voting stock or a person's acquisition of a controlling interest to proceed as proposed, the utility purchasing voting stock or the person acquiring a controlling interest shall file a written update on the status of the transaction. A written update shall also be filed every 30 days thereafter, until the transaction has been completed.
- (i) The commission's approval of a utility's purchase of voting stock or a person's acquisition of a controlling interest in a utility expires 180 days after the date of the commission order approving the transaction as proposed. If the transaction has not been completed within the 180-day time period, and unless the utility purchasing voting stock or the person acquiring a controlling interest has requested and received an extension for good cause from the commission, the approval is void.