

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

Subchapter H. CERTIFICATES OF CONVENIENCE AND NECESSITY.

§24.249. Cessation of Operations by a Retail Public Utility.

- (a) Any retail public utility that possesses or is required to possess a certificate of convenience and necessity (CCN) and seeks to discontinue, reduce, or impair retail water or sewer utility service, except under the conditions listed in TWC §13.250(b), must file a petition with the commission which sets out the following:
 - (1) the action proposed by the retail public utility;
 - (2) the proposed effective date of the actions, which must be at least 120 days after the petition is filed with the commission;
 - (3) a concise statement of the reasons for proposing the action; and
 - (4) the part of the petitioner's service area affected by the action, including maps as described by §24.257 of this title (relating to Mapping Requirements for Certificates of Convenience and Necessity Applications).
- (b) The petitioner shall file a proposed notice to customers and any other affected parties. The proposed notice shall include:
 - (1) the name, CCN number, if any, mailing address, and business telephone number of the petitioner;
 - (2) a description of the service area of the petitioner involved;
 - (3) the anticipated effect of the cessation of operations on the rates and services provided to all customers; and
 - (4) a statement that a person who wishes to intervene or comment should file a request to intervene or comments with the commission at the commission's mailing address: Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326.
- (c) After reviewing and, if necessary, modifying the proposed notice, the commission will provide the notice to the petitioner for mailing to:
 - (1) cities and neighboring retail public utilities providing the same utility service within two miles of the outer boundary of the petitioner's certificated service area;
 - (2) any city whose extraterritorial jurisdiction overlaps the petitioner's certificated service area;
 - (3) the customers of the petitioner; and
 - (4) any person that has requested service from the petitioner but that has not yet received service.
- (d) The petitioner may be required by the commission to publish notice once each week for two consecutive weeks in a newspaper of general circulation in the county(ies) of operation. In addition to the information specified in subsection (b) of this section, the notice shall include the following:
 - (1) the sale price of the facilities;
 - (2) the name, CCN number, if any, and mailing address of the petitioner's owner or authorized representative; and
 - (3) the business telephone of the petitioner.
- (e) The commission may require the petitioner to deliver notice to other affected persons or agencies.
- (f) If no hearing is requested by the 30th day after the required notice has been mailed or published, whichever occurs later, the commission may consider the petition for final decision without further hearing.
- (g) If a hearing is requested, the petition will be processed in accordance with Chapter 22 of this title (relating to Procedural Rules).
- (h) Under no circumstance may any of the following entities cease operations without the approval of the regulatory authority: a retail public utility that possesses or is required to possess a CCN, a person who

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possesses facilities used to provide retail water or sewer utility service, or a water utility or water supply corporation with less than 15 connections that is operating without a CCN under §24.229 of this title (relating to Certificate of Convenience and Necessity Not Required).

- (i) In determining whether to authorize a retail public utility to discontinue, reduce, or impair retail water or sewer utility service, the commission shall consider, but is not limited to, the following factors:
 - (1) the effect on the customers and landowners;
 - (2) the costs associated with bringing the utility into compliance;
 - (3) the applicant's diligence in locating alternative sources of service;
 - (4) the applicant's efforts to sell the utility, such as running advertisements, contacting other retail public utilities, or discussing cooperative organization with the customers;
 - (5) the asking price for purchase of the utility as it relates to the undepreciated original cost of the system for ratemaking purposes;
 - (6) the relationship between the applicant and the original developer of the area services;
 - (7) the availability of alternative sources of service, such as adjacent retail public utilities or groundwater; and
 - (8) the feasibility of customers and landowners obtaining service from alternative sources, considering the costs to the customer, quality of service available from the alternative source, and length of time before full service can be provided.

- (j) If a utility discontinues or otherwise abandons operation of its facilities without commission authorization, the commission may appoint a temporary manager or place the utility under supervision to take over the utility's operations, management, finances, and facilities to ensure continuous and adequate retail water and/or sewer utility service.