

**PROJECT NO. 47304**

<b>AMENDING 16 TAC §24.142(a) FOR</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>APPOINTMENT OF RECEIVER FOR</b>	<b>§</b>	
<b>WATER OR SEWER UTILITY</b>	<b>§</b>	<b>OF TEXAS</b>
<b>PURSUANT TO TEXAS WATER</b>	<b>§</b>	
<b>CODE §13.142(a)</b>	<b>§</b>	

**ORDER ADOPTING AN AMENDMENT TO §24.142  
AS APPROVED AT THE JANUARY 25, 2018 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §24.142 by adding new subparagraph §24.21(a)(2)(D) and new clauses §24.21(a)(2)(D)(i)-(iii) relating to the operation of a utility that discontinues operation or is referred for appointment of a receiver. The amendments to subsection (a) are made without changes to the proposed text as published in the November 10, 2017 issue of the *Texas Register* (42 TexReg 6293). The amendments implement House Bill 294 (HB 294), 85th Texas Legislature, Regular Session, which amended Texas Water Code §13.142(a) (TWC) by adding an additional criterion for which, at the request of the commission, the attorney general shall bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility. Project Number 47304 was assigned to this proceeding. HB 294 specifies that, at the request of the commission, the attorney general shall bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility that violates a final judgment issued by a district court in a suit brought by the attorney general under TWC Chapters 7 or 13, or the Texas Health and Safety Code Chapter 341.

A public hearing was not requested; therefore, no hearing was held on the proposed amendment.

No comments were filed regarding the proposed amendment after the Open Meeting held on October 26, 2017.

The amendment is adopted under TWC §13.041(b), which provides the 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).

**§24.142. Operation of Utility that Discontinues Operation or is Referred for Appointment of a Receiver.**

- (a) After providing a utility with notice and an opportunity for a hearing, the commission may appoint a willing person, municipality, or political subdivision to temporarily manage and/or operate a utility that:
- (1) has discontinued or abandoned operations or the provision of services; or
  - (2) is being referred to the attorney general for the appointment of a receiver under TWC §13.412 for:
    - (A) having expressed an intent to abandon or abandoned operation of its facilities;
    - (B) having violated a final order of the commission;
    - (C) having allowed any property owned or controlled by it to be used in violation of a final order of the commission; or
    - (D) having violated a final judgment issued by a district court in a suit brought by the attorney general under:
      - (i) Chapter 13, Texas Water Code;
      - (ii) Chapter 7, Texas Water Code; or
      - (iii) Chapter 341, Texas Health and Safety Code.
- (b) Appointment under this section may be by emergency order under chapter 22, subchapter P of this title (relating to Emergency Orders for Water Utilities). A corporation may be appointed as a temporary manager.

- (c) Abandonment includes, but is not limited to:
- (1) failure to pay a bill or obligation owed to a retail public utility or to an electric or gas utility with the result that the utility service provider has issued a notice of discontinuance of necessary services;
  - (2) failure to provide appropriate water or wastewater treatment so that a potential health hazard results;
  - (3) failure to adequately maintain facilities or provide sufficient facilities resulting in potential health hazards, extended outages, or repeated service interruptions;
  - (4) failure to provide customers adequate notice of a health hazard or potential health hazard;
  - (5) failure to secure an alternative available water supply during an outage;
  - (6) displaying a pattern of hostility toward or repeatedly failing to respond to the commission or the utility's customers; and
  - (7) failure to provide the commission or its customers with adequate information on how to contact the utility for normal business and emergency purposes.
- (d) This section does not affect the authority of the commission to pursue an enforcement claim against a utility or an affiliated interest.

This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §24.142 relating to operation of a utility that discontinues operation or is referred for appointment of a receiver is hereby adopted with no changes to the text as proposed.

**Signed at Austin, Texas the \_\_\_\_\_ day of JANUARY 2018.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DEANN T. WALKER, CHAIRMAN**

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**BRANDY MARTY MARQUEZ, COMMISSIONER**

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**ARTHUR C. D'ANDREA, COMMISSIONER**