

Subchapter M. PROCEDURES AND FILING REQUIREMENTS IN PARTICULAR COMMISSION PROCEEDINGS.

§22.248. Retail Public Utilities.

- (a) **Scope.** This section is intended to address proceedings related to retail public utilities, including applications related to certificates of convenience and necessity, rate proceedings, or appeals of rate actions.
- (b) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:
 - (1) 30 TAC Chapter 80--Texas Commission on Environmental Quality (TCEQ) rules relating to Contested Case Hearings, as the rules existed on August 31, 2014.
 - (2) Retail public utility -- A retail public utility as defined in Texas Water Code §13.002.
- (c) **Transfer of proceedings.**
 - (1) On September 1, 2014, proceedings related to a retail public utility's certificate of convenience and necessity or rates shall be transferred to the commission in accordance with law.
 - (2) The procedural rules of the commission shall be used in every retail public utility proceeding transferred to the commission as soon as practicable or as established by this section.
 - (3) The presiding officer shall have authority to determine in accordance with this section whether the commission's procedural rules, the TCEQ's procedural rules as continued in force by this section, or any combination of those agencies' rules shall apply in each retail public utility proceeding transferred to the commission.
- (d) **Specific procedures in transferred case.** Every retail public utility proceeding transferred to the commission on September 1, 2014 shall be subject to this chapter as follows:
 - (1) If a preliminary hearing has not been held and a scheduling order has not been issued in a proceeding transferred to the commission, then this chapter shall govern all aspects of the proceeding that have not been completed.
 - (2) If a preliminary hearing has been held and a scheduling order has issued, but a hearing on the merits has not been held, then the presiding officer shall convene a prehearing conference to address and establish the following matters:
 - (A) whether 30 TAC Chapter 80 or this chapter shall govern discovery;
 - (B) whether the procedural schedule should be modified or the proceeding abated, or both, to allow a reasonable time for the staff of the commission to prepare and file testimony or to modify or adopt the testimony previously filed by the TCEQ;
 - (C) to discuss the filing requirements of the commission under this chapter; and
 - (D) to reconcile any other matters that may arise as a result of the transfer of the proceeding to the commission.
 - (3) If a hearing on the merits has been completed, but a proposal for decision has not been delivered, the proposal for decision shall be delivered to the commission and this chapter shall govern the remainder of the proceeding.
 - (4) If a proposal for decision has been issued, but the matter has not been decided, then:
 - (A) the administrative and hearing record shall be transferred to the commission as expeditiously as possible;
 - (B) if dates have not been set for exceptions and replies to exception to the proposal for decision, those dates shall be set and the parties notified of the dates; and
 - (C) the matter shall be scheduled for an open meeting before the commission.
- (e) **Motions for rehearing.** Motions for rehearing for every proceeding transferred to the commission shall be governed by this chapter.

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- (f) **Proceedings initiated after September 1, 2014.** Every retail public utility proceeding initiated at the commission after September 1, 2014 shall be governed by this chapter and by Chapter 24 of this title (relating to Substantive Rules Applicable to Water and Sewer Service Providers).
- (g) **Continuation of TCEQ rules.** The rules of the TCEQ related to the duties transferred to the commission regarding water and sewer utilities continue as rules of the commission until amended or replaced by this commission. This section is a replacement of those procedural rules, provided however, that the procedural rules of the TCEQ are continued for proceedings transferred to the commission to the extent not inconsistent with this section.