

PROJECT NO. 49798

RULEMAKING PROJECT TO	§	PUBLIC UTILITY COMMISSION
AMEND CHAPTER 24 TO REVISE	§	
CLASSIFICATIONS FOR WATER	§	OF TEXAS
AND SEWER UTILITIES	§	

PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §§24.3, 24.11, 24.14, 24.25, 24.27, 24.29, 24.33, 24.35, 24.49, 24.127, 24.129, 24.227, AND 24.363 AS APPROVED AT THE DECEMBER 13, 2019 OPEN MEETING

The Public Utility Commission of Texas (commission) proposes amendments to 16 Texas Administrative Code (TAC) §§24.3, 24.11, 24.14, 24.25, 24.27, 24.29, 24.33, 24.35, 24.49, 24.127, 24.129, 24.227, and 24.363, relating to classifications and reporting requirements for water and sewer utilities. The proposed amendments will implement the changes required by sections 1, 2 (in part), 3, 7, 8, 9, and 11 of Senate Bill 700, passed in the 86th Regular Legislative Session and effective in 2019, relating to changes in the classification of water and sewer utilities, the issuance of emergency orders by the commission and the Texas Commission on Environmental Quality (TCEQ), and the continuation of temporary rates for nonfunctioning utilities that are acquired by another utility. The proposed amendments make changes to 16 TAC §24.3 to conform certain definitions to the definitions found in TWC §13.002, delete terms that are defined using language that is repeated elsewhere in 16 TAC Chapter 24, delete terms that are also defined in 16 TAC Chapter 22, and delete terms that appear only in 16 TAC §24.3 and nowhere else in 16 TAC Chapter 24. Definitions of some commonly-used ratemaking terms are also deleted.

Growth Impact Statement

The commission provides the following governmental growth impact statement for the proposed amendments, as required by Texas Government Code §2001.0221. The commission has determined that for each year of the first five years that the amendments are in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed amendments will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed amendments will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed amendments will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed amendments will not create a new regulation;
- (6) the proposed amendments will not repeal an existing regulation;
- (7) the proposed amendments will not change the number of individuals subject to the rule's applicability; and
- (8) the proposed amendments will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed amendments. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed amendments will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Debi Loockerman, Director of Water Rates Analysis, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Loockerman has also determined that for each year of the first five years the proposed amendments are in effect, the anticipated public benefits expected as a result of the adoption of the proposed amendments will be implementation of Senate Bill 700, including conforming the commission's rules to reflect newly defined rate classes for water and sewer utilities and clarification of the definitions used in Chapter 24. The probable economic cost to persons required to comply with the proposed amendments will be negligible under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed amendments are in effect there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking, if requested in accordance with Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on March 4, 2020. Requests for hearing must be received by February 18, 2020. If no hearing is requested, a filing will be made in Project No. 49798 to inform interested persons that no hearing will be held.

Public Comments

Comments and reply comments on the proposed amendments may be filed with the commission's filing clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, TX 78711-3326. Comments must be received by February 3, 2020. Reply comments must be received by February 18, 2020. Sixteen copies of comments on the proposed amendments are required to be filed by 16 TAC §22.71(c). Comments should be organized in a manner consistent with the organization of the proposed amendments. The commission invites

specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission will consider the costs and benefits in deciding whether to adopt the proposed amendments. All comments should refer to Project Number 49798.

Statutory Authority

The amendments are proposed under Texas Water Code (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; TWC §13.041(d), which grants the commission the authority to issue emergency orders to compel a retail public utility to provide continuous and adequate service if discontinuance of service is imminent or has occurred because of the retail public utility's actions or inactions; TWC §13.041(i), which grants the commission the authority to establish reasonable compensation for temporary service to a neighboring retail public utility when TCEQ has ordered an emergency interconnection and has requested that the commission set such compensation; TWC §13.046, which grants the commission the authority to adopt rules establishing a procedure that allows a retail public utility that takes over the provision of services for a nonfunctioning retail water or sewer utility service provider to charge a reasonable rate to the customers of the nonfunctioning system; TWC §13.131, which allows the commission to prescribe the forms of books, accounts, records, and memoranda to be kept by water and sewer utilities; TWC §13.136(b), which directs the commission to require by rule the filing of an annual service, financial, and normalized earnings report; TWC §13.181(b), which provides the commission with the authority to fix and regulate rates of utilities, including rules and regulations for determining the classification of customers and services for determining the

applicability of rates; TWC §13.1871, which grants the commission the authority to adopt rules governing the contents of an application to change rates and the authority to suspend the effective date of a proposed rate change; TWC §13.1872, which requires the commission to adopt rules establishing procedures to allow a Class D utility to receive an annual rate adjustment; TWC §13.1873, which requires the commission to adopt rules that allow a Class B utility to file a less burdensome application than the application for a Class A utility, and a Class C or D utility to file a less burdensome application than the applications for a Class A or B utility; and TWC §13.246, which authorizes the commission to grant or amend a certificate of convenience and necessity.

Cross Reference to Statutes: Texas Water Code §§13.041, 13.046, 13.131, 13.136(b), 13.181(b), 13.1871, 13.1872, 13.1873, 13.246.

§24.3. Definitions of Terms.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) ~~**Acquisition adjustment**~~

(A) ~~The difference between:~~

(i) ~~the lesser of the purchase price paid by an acquiring utility or the current depreciated replacement cost of the plant, property, and equipment comparable in size, quantity, and quality to that being acquired, excluding customer contributed property, less accumulated depreciation; and~~

(ii) ~~the original cost of the plant, property, and equipment being acquired, excluding customer contributed property, less accumulated depreciation.~~

(B) ~~A positive acquisition adjustment results when subparagraph (A)(i) of this paragraph is greater than subparagraph (A)(ii) of this paragraph.~~

(C) ~~A negative acquisition adjustment results when subparagraph (A)(ii) of this paragraph is greater than subparagraph (A)(i) of this paragraph.~~

(2) ~~**Active connections**~~ ~~Water or sewer connections currently being used to provide retail water or sewer service, or wholesale service.~~

(3) ~~**ADFIT**~~ ~~Accumulated deferred federal income tax~~ ~~The amount of income tax deferral, typically reflected on the balance sheet, produced by deferring the payment of federal income taxes by using tax advantageous methods such as accelerated depreciation.~~

- (1) ~~(4)~~ **Affected county** -- A county to which Local Government Code, Chapter 232, Subchapter B, applies.
- (2) ~~(5)~~ **Affected person** -- Any landowner within an area for which ~~a an application for a new or amended~~ certificate of public convenience and necessity is filed, ~~filed~~; any retail public utility affected by any action of the regulatory authority, ~~authority~~; any person or corporation whose utility service or rates are affected by any proceeding before the regulatory authority, ~~authority~~; or any person or corporation that is a competitor of a retail public utility with respect to any service performed by the retail public utility or that desires to enter into competition.
- (3) ~~(6)~~ **Affiliated interest or affiliate** --
- (A) – (G) (No change.)
- ~~(7) **Agency** -- Any state board, commission, department, or officer having statewide jurisdiction (other than an agency wholly financed by federal funds, the legislature, the courts, the Texas Department of Insurance Division of Workers' Compensation, and institutions for higher education) which makes rules or determines contested cases.~~
- ~~(8) **Allocations** -- For all retail public utilities, the division of plant, revenues, expenses, taxes, and reserves between municipalities, or between municipalities and unincorporated areas, where such items are used for providing water or sewer utility service in a municipality or for a municipality and unincorporated areas. A non-municipal allocation is the division of plant, revenues, expenses, taxes and reserves between affiliates, jurisdictions, rate regions, business units, functions, or customer classes defined within a retail public utility's operations for all retail public utilities and affiliates.~~

~~(9) — **Amortization** — The gradual extinguishment of an amount in an account by distributing the amount over a fixed period (such as over the life of the asset or liability to which it applies).~~

~~(10) — **Annualization** — An adjustment to bring a utility's accounts to a 12-month level of activity.~~

~~(11) — **Base rate** — The portion of a consumer's utility bill that is paid for the opportunity to receive utility service, which does not vary due to changes in utility service consumption patterns.~~

~~(4) (12) **Billing period** -- The usage period between meter reading dates for which a bill is issued or, if usage is not metered, or in nonmetered situations, the period between bill issuance dates.~~

~~(13) — **Block rates** -- A rate structure set by using blocks, typically inclining cost for increased usage, which changes the cost per 1,000 gallons as usage increases to the next block.~~

~~(14) — **Certificate of Convenience and Necessity (CCN)** -- A permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer utility service to a specified geographic area. Certificate or Certificate of Public Convenience and Necessity have the same meaning.~~

~~(5) (15) **Class A Utility** -- A public utility that provides retail water or sewer utility service to 10,000 or more taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.~~

- (6) ~~(16)~~ **Class B Utility** -- A public utility that provides retail water or sewer utility service to 2,300 ~~500~~ or more taps or active connections but fewer than 10,000 taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.
- (7) ~~(17)~~ **Class C Utility** -- A public utility that provides retail water or sewer utility service to ~~fewer than 500~~ or more taps or active connections but fewer than 2,300 taps or active connections. ~~A Class C utility filing an application under TWC §13.1871 shall be subject to all requirements applicable to Class B utilities filing an application under TWC §13.1871.~~ If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.
- (8) **Class D Utility** -- A public utility that provides retail water or sewer utility service to fewer than 500 taps or active connections. If a public utility provides both water and sewer utility service, the number of active water connections determines how the utility is classified.
- (9) ~~(18)~~ **Commission** -- The Public Utility Commission of Texas, ~~or a presiding officer, as applicable.~~
- (10) ~~(19)~~ **Corporation** -- Any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or ~~and~~ privileges of corporations not possessed by individuals or partnerships, but does ~~shall~~ not include municipal corporations unless expressly provided ~~otherwise in TWC Chapter 13, the TWC.~~
- (11) ~~(20)~~ **Customer** -- Any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency provided with services by any retail public utility.

- (12) ~~(21)~~ **Customer class** -- A description of utility service provided to a customer that denotes such characteristics as nature of use or type of rate. For rate-setting purposes, a group of customers with similar cost-of-service characteristics that take utility service under a single set of rates.
- (13) ~~(22)~~ **Customer service line or pipe** -- The pipe connecting the water meter to the customer's point of consumption or the pipe that conveys sewage from the customer's premises to the service provider's service line.
- (14) ~~(23)~~ **District** -- District has the meaning assigned to it by TWC §49.001(a).
- (15) ~~(24)~~ **Facilities** -- All the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility.
- ~~(25)~~ **Financial assurance** -- The demonstration that sufficient or adequate financial resources exist to operate and manage the utility and to provide continuous and adequate service to the utility's service area or and/or requested area.
- ~~(26)~~ **Functional cost category** -- Costs related to a particular operational function of a utility for which annual operations and & maintenance expenses and utility plant investment records are maintained.
- ~~(27)~~ **Functionalization** -- The assignment or allocation of costs to utility functional cost categories.
- ~~(28)~~ **General rate revenue** -- A rate or the associated revenues designed to recover the cost of service other than certain costs separately identified and recovered through a pass-

~~through or any specific rate such as a surcharge. For water and wastewater utilities, rates typically include the base rate and gallonage rate.~~

~~(16) (29) **Inactive connection ~~connections~~** -- A water ~~Water~~ or wastewater connection ~~connections~~ tapped to the applicant's utility and that is ~~are~~ not currently receiving service from a retail public ~~the~~ utility.~~

~~(17) (30) **Incident of tenancy** -- Water or sewer service ~~service~~, provided to tenants of rental property, for which no separate or additional service fee is charged other than the rental payment.~~

~~(31) **Intervenor** -- A person, other than the applicant, respondent, or the commission staff representing the public interest, who is permitted by this chapter or by ruling of the presiding officer, to become a party to a proceeding.~~

~~(32) **Known and measurable (K&M)** -- Verifiable on the record as to amount and certainty of effectuation. Reasonably certain to occur within 12 months of the end of the test year.~~

~~(18) (33) **Landowner** -- An owner ~~or owners~~ of a tract of land, ~~land~~ including multiple owners of a single ~~deeded~~ tract of land, ~~land~~ as shown on the appraisal roll of the appraisal district established for each county in which the property is located.~~

~~(34) **License** -- The whole or part of any commission permit, certificate, registration, or similar form of permission required by law.~~

~~(35) **Licensing** -- The commission process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license, certificates of convenience and necessity, or any other authorization granted by the commission in accordance with its authority under the TWC.~~

- ~~(36) **Main** — A pipe operated by a utility service provider that is used for transmission or distribution of water or to collect or transport sewage.~~
- ~~(37) **Mandatory water use reduction** — The temporary reduction in the use of water imposed by court order, government agency, or other authority with appropriate jurisdiction. This does not include water conservation measures that seek to reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling or reuse of water so that a water supply is made available for future or alternative uses.~~
- (19) ~~(38)~~ **Member** -- A person who holds a membership in a water supply or sewer service corporation and who is a record owner of a fee simple title to property in an area served by within a water supply or sewer service corporation ~~corporation's service area~~, or a person who is granted a membership and who either currently receives or will be eligible to receive water or sewer utility service from the corporation. In determining member control of a water supply or sewer service corporation, a person is entitled to only one vote regardless of the number of memberships the person owns.
- ~~(39) **Membership fee** — A fee assessed each water supply or sewer service corporation service applicant that entitles the applicant to one connection to the water or sewer main of the corporation. The amount of the fee is generally defined in the corporation's bylaws and payment of the fee provides for issuance of one membership certificate in the name of the applicant, for which certain rights, privileges, and obligations are allowed under said bylaws. For purposes of TWC §13.043(g), a membership fee is a fee not exceeding approximately 12 times the monthly base rate for water or sewer service or an amount that does not include any materials, labor, or services required for or provided by~~

~~the installation of a metering device for the delivery of service, capital recovery, extension fees, buy-in fees, impact fees, or contributions in aid of construction.~~

~~(40) **Multi-jurisdictional** -- A utility that provides water and/or wastewater service in more than one state, country, or separate rate jurisdiction by its own operations, or through an affiliate.~~

(20) **Minimum Monthly Charge** -- The fixed amount billed to a customer each month even if the customer uses no water or wastewater.

(21) ~~(41)~~ **Municipality** -- Cities A city, existing, created, or organized under the general, home rule, or special laws of this state.

(22) ~~(42)~~ **Municipally owned utility** -- Any retail public utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.

~~(43) **Net Book Value** -- The amount of the asset that has not yet been recovered through depreciation. It is the original cost of the asset minus accumulated depreciation.~~

(23) ~~(44)~~ **Nonfunctioning system or utility** -- A system that is operating as a retail public utility and

(A) ~~that~~ is required to have a CCN and is operating without a CCN; or

(B) ~~is a retail public utility~~ under supervision in accordance with §24.353 of this title (relating to Supervision of Certain Utilities); or

(C) ~~is a retail public utility~~ under the supervision of a receiver, temporary manager, or ~~that~~ has been referred for the appointment of a temporary manager or receiver, in accordance with §24.355 of this title (relating to Operation of Utility that

Discontinues Operation or Is Referred for Appointment of a Receiver) and

§24.357 of this title (relating to Operation of a Utility by a Temporary Manager).

~~(24)~~ **(45) Person** -- Natural ~~Includes natural~~ persons, partnerships of two or more persons having a joint or common interest, mutual or cooperative associations, water supply or sewer service corporations, and corporations.

~~(46)~~ **Point of use or point of ultimate use** -- The primary location where water is used or sewage is generated; for example, a residence or commercial or industrial facility.

~~(25)~~ **(47) Potable water** -- Water that is used for or intended to be used for human consumption or household use.

~~(26)~~ **(48) Potential connections** -- Total number of active plus inactive connections.

~~(27)~~ **(49) Premises** -- A tract of land or real estate including buildings and other appurtenances thereon.

~~(50)~~ **Protestor** -- A person who is not a party to the case who submits oral or written comments. A person classified as a protestor does not have rights to participate in a proceeding other than by providing oral or written comments.

~~(51)~~ **Public utility** -- The definition of public utility is that definition given to a water and sewer utility in this subchapter.

~~(52)~~ **Purchased sewage treatment** -- Sewage treatment purchased from a source outside the retail public utility's system to meet system requirements.

~~(53)~~ **Purchased water** -- Raw or treated water purchased from a source outside the retail public utility's system to meet system demand requirements.

~~(28)~~ **(54) Rate** -- Every ~~Includes every~~ compensation, tariff, charge, fare, toll, rental, and classification or any of those items ~~them~~ demanded, observed, charged, or collected,

whether directly or indirectly, by any retail public utility, ~~or water or sewer service supplier,~~ for any service, product, or commodity described in TWC §13.002(23), and any rules, regulations, practices, or contracts affecting that any such compensation, tariff, charge, fare, toll, rental, or classification.

~~(55) **Rate region** -- An area within Texas for which the applicant has set or proposed uniform tariffed rates by customer class.~~

~~(56) **Ratepayer** -- Each person receiving a separate bill shall be considered as a ratepayer, but no person shall be considered as being more than one ratepayer notwithstanding the number of bills received. A complaint or a petition for review of a rate change shall be considered properly signed if signed by any person, or spouse of any such person, in whose name utility service is carried.~~

~~(57) **Reconnect fee** -- A fee charged for restoration of service where service has previously been provided. It may be charged to restore service after disconnection for reasons listed in §24.167 of this title (relating to Discontinuance of Service) or to restore service after disconnection at the customer's request.~~

(29) ~~(58)~~ **Requested area** -- The area that a petitioner or applicant seeks to obtain, add to, or remove from a retail public utility's certificated service area.

(30) ~~(59)~~ **Retail public utility** -- Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.

(31) ~~(60)~~ **Retail water or sewer utility service** -- Potable water service or sewer service, or both, provided by a retail public utility to the ultimate consumer for compensation.

~~(61) **Return on invested capital** -- The rate of return times invested capital.~~

~~(32) (62) **Service** -- Any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties under the TWC Chapter 13 to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities.~~

~~(33) (63) **Service area** -- Area to which a retail public utility is obligated to provide retail water or sewer utility service.~~

~~(64) **Service line or pipe** -- A pipe connecting the utility service provider's main and the water meter or for sewage, connecting the main and the point at which the customer's service line is connected, generally at the customer's property line.~~

~~(65) **Sewage** -- Ground garbage, human and animal, and all other waterborne type waste normally disposed of through the sanitary drainage system.~~

~~(34) (66) **Stand-by fee** -- A charge, other than a tax, charge imposed on undeveloped property:~~

~~(A) with no water or wastewater connections; and~~

~~(B) for which water, sanitary sewer, or drainage facilities and services are available;~~

~~water supply, wastewater treatment plant capacity, or drainage capacity sufficient~~

~~to serve the property is available; or major water supply lines, wastewater~~

~~collection lines, or drainage facilities with capacity sufficient to serve the property~~

~~are available. unimproved property for the availability of water or sewer service~~

~~when service is not being provided.~~

~~(67) **Tap fee** -- A tap fee is the charge to new customers for initiation of service where no service previously existed. A tap fee for water service may include the cost of physically tapping the water main and installing meters, meter boxes, fittings, and other materials~~

~~and labor. A tap fee for sewer service may include the cost of physically tapping the main and installing the utility's service line to the customer's property line, fittings, and other material and labor. Water or sewer taps may include setting up the new customer's account, and allowances for equipment and tools used. Extraordinary expenses such as road bores and street crossings and grinder pumps may be added if noted on the utility's approved tariff. Other charges, such as extension fees, buy in fees, impact fees, or contributions in aid of construction (CIAC) are not to be included in a tap fee.~~

~~(35) (68) **Tariff** — The schedule of a retail public utility containing all rates, tolls, and charges stated separately by type or kind of service and the customer class, and the rules and regulations of the retail public utility stated separately by type or kind of service and the customer class.~~

~~(69) **TCEQ** — Texas Commission on Environmental Quality.~~

~~(36) (70) **Temporary rate for services provided for a nonfunctioning system -- A rate charged under TWC §13.046 to the customers of a nonfunctioning system by a A temporary rate for a retail public utility that takes over the provision of service for a nonfunctioning retail public water or sewer utility service provider.**~~

~~(71) **Temporary water rate provision for mandatory water use reduction** — A provision in a utility's tariff that allows a utility to adjust its rates in response to mandatory water use reduction.~~

~~(37) (72) **Test year** -- The most recent 12-month period, beginning on the first day of a calendar or fiscal year quarter, for which operating data for a retail public utility are available.~~

~~(38) (73) **Tract of land** -- An area of land that has common ownership and is not severed by other land under different ownership, whether owned by government entities or private~~

parties; such other land includes roads and railroads. A tract of land may be acquired through multiple deeds or shown in separate surveys.

~~(74) TWC Texas Water Code.~~

~~(75) Utility The definition of utility is that definition given to water and sewer utility in this subchapter.~~

~~(39) (76) Water and sewer utility, utility, or public utility -- ~~utility~~ Any person, corporation, cooperative corporation, affected county, or any combination of those persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the ~~production~~, transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.~~

~~(40) (77) Water supply or sewer service corporation -- Any nonprofit corporation organized and operating under TWC chapter 67, that provides potable water or sewer service for compensation and that has adopted and is operating in accordance with bylaws or articles of incorporation which ensure that it is member-owned and member-controlled. The~~

term does not include a corporation that provides retail water or sewer utility service to a person who is not a member, except that the corporation may provide retail water or sewer utility service to a person who is not a member if the person only builds on or develops property to sell to another and the service is provided on an interim basis before the property is sold. ~~For purposes of this chapter, to qualify as member owned, member controlled a water supply or sewer service corporation must also meet the following conditions:~~

- ~~(A) — All members of the corporation meet the definition of “member” under this section, and all members are eligible to vote in those matters specified in the articles and bylaws of the corporation. Payment of a membership fee in addition to other conditions of service may be required provided that all members have paid or are required to pay the membership fee effective at the time service is requested.~~
 - ~~(B) — Each member is entitled to only one vote regardless of the number of memberships owned by that member.~~
 - ~~(C) — A majority of the directors and officers of the corporation must be members of the corporation.~~
 - ~~(D) — The corporation’s bylaws include language indicating that the factors specified in subparagraphs (A) — (C) of this paragraph are in effect.~~
- ~~(78) — **Water use restrictions** — Restrictions implemented to reduce the amount of water that may be consumed by customers of the utility due to emergency conditions or drought.~~

(41) ~~(79)~~ **Wholesale water or sewer service** -- Potable water or sewer service, or both, provided to a person, political subdivision, or municipality who is not the ultimate consumer of the service.

§24.11. Financial Assurance.

- (a) (No change.)
- (b) **Application.** This section applies to new and existing owners or operators of retail public utilities that are required to provide financial assurance under ~~pursuant to~~ this chapter.
- (c) (No change.)
- (d) **Irrevocable stand-by letter of credit.** Irrevocable stand-by letters of credit must be issued by a financial institution that is supervised or examined by the Board of Governors of the Federal Reserve System, the Office of the Controller of the Currency, or a state banking department, and where accounts are insured by the Federal Deposit Insurance Corporation. The retail public utility must use the standard form irrevocable stand-by letter of credit approved by the commission. The irrevocable stand-by letter of credit must be irrevocable for a period not less than five years, be payable to the commission, and permit a draw to be made in part or in full. The irrevocable stand-by letter of credit must permit the commission's executive director or the executive director's designee to draw on the irrevocable stand-by letter of credit if the retail public utility has failed to provide continuous and adequate service or the retail public utility cannot demonstrate its ability to provide continuous and adequate service.
- (e) **Financial test.**
 - (1) An owner or operator may demonstrate financial assurance by satisfying a ~~financial test including~~ the leverage and operations tests that conform to the requirements of this section, unless the commission finds good cause exists to require only one of these tests.

(2) – (3) (No change.)

(4) To demonstrate that the requirements of the leverage and operations tests are being met, the owner or operator ~~must shall~~ submit the following items to the commission:

(A) An affidavit signed by the owner or operator attesting to the accuracy of the information provided. The owner or operator may use the Applicant's Oath adopted by the commission as part of an affidavit included with an application filed under pursuant to §24.233 of this title (relating to Contents of Certificate of Convenience and Necessity Applications) pursuant to the commission's form for the purpose of meeting the requirements of this subparagraph; and

(B) A copy of one of the following:

(i) – (ii) (No change.)

(iii) internally produced financial statements meeting the following requirements:

(I) (No change.)

(II) for a proposed or new utility, start up information and five years of pro forma projections including a balance sheet, income statement and expense statement or evidence that the utility will be moving toward proper accountability and transparency during the first five years of operations. All assumptions must be clearly defined and the utility must

~~shall~~ provide all documents supporting projected lot sales or customer growth.

(C) (No change.)

(5) If the applicant is proposing service to a new CCN area or a substantial addition to its current CCN area requiring capital improvements in excess of \$100,000, the applicant must provide the following:

(A) (No change.)

(B) The owner must submit loan approval documents or firm capital commitments affirming funds are available to install:

(i) the to install plant and equipment necessary to serve projected customers in the first two years of projections; ~~projections~~ or

(ii) a new water system or substantial addition to an existing a ~~currently operating~~ water system if the applicant is proposing service to ~~application includes added CCN area with the intention of serving~~ a new CCN area or a new subdivision.

(6) If the applicant is a nonfunctioning utility, as defined in ~~§24.3(23)~~ §24.3(44) of this title (relating to Definitions of Terms), the commission may consider other information to determine if the proposed certificate holder is capable ~~has the capability~~ of meeting the leverage and operations tests.

§24.14. Emergency Orders and Emergency Rates.

- (a) The commission may issue an emergency order ~~orders~~ in accordance with ~~the~~ Texas Water Code (TWC) Chapter 13, Subchapter K-1 under Chapter 22, Subchapter P of this title (relating to Emergency Orders for Water and Sewer Utilities), with or without a hearing:
- (1) to appoint a person under §24.355 of this title (relating to Operation of Utility that Discontinues Operation or is Referred for Appointment of a Receiver), §24.357 of this title (relating to Operation of a Utility by a Temporary Manager), or TWC ~~Texas Water Code~~ §13.4132 to temporarily manage and operate a utility that has discontinued or abandoned operations or that is being referred to the Office of the Texas Attorney General for the appointment of a receiver under TWC ~~Texas Water Code~~ §13.412;
 - (2) to compel a retail public utility ~~water or sewer provider~~ that has obtained or is required to obtain a certificate of public convenience and necessity to provide continuous and adequate retail water service, sewer service, or both, if the discontinuance of the service is imminent or has occurred because of the retail public utility's ~~service provider's~~ actions or inactions;
 - (3) (No change.)
 - (4) to authorize an emergency rate increase if necessary to ensure the provision of continuous and adequate retail water or sewer service to the utility's customers under pursuant to TWC ~~Texas Water Code~~ §13.4133:
 - (A) for a utility for which a person has been appointed under TWC ~~Texas Water Code~~ §13.4132 to temporarily manage and operate the utility; or

(B) for a utility for which a receiver has been appointed under TWC Texas Water Code §13.412;

(5) to establish, on an expedited basis, in response to a request by the Texas Commission on Environmental Quality (TCEQ), reasonable compensation for the temporary service required under TWC §13.041(h)(2) and to allow the retail public utility receiving the service to make a temporary adjustment to its rate structure to ensure proper payment;

(6) (5) to compel a retail public utility to make specified improvements and repairs to a the water or sewer system system(s) owned or operated by the utility under TWC pursuant to Texas Water Code §13.253(b):

(A) – (B) (No change.)

(C) if the retail public utility has provided financial assurance under Texas Health and Safety Code §341.0355 or TWC Texas Water Code Chapter 13;

(7) (6) to order an improvement in service or an interconnection under TWC pursuant to Texas Water Code §13.253(a)(1)-(3).

(b) (No change.)

(c) For an emergency order issued under ~~pursuant to~~ subsection (a)(4) of this section ~~and in accordance with §22.296 of this title (relating to Additional Requirements for Emergency Rate Increases):~~

(1) the commission will ~~shall~~ coordinate with the TCEQ as needed;

(2) – (5) (No change.)

- (6) the utility must ~~shall~~ maintain adequate books and records for a period not less than 12 months to allow for the determination of a cost of service as set forth in §24.41 of this title (relating to Cost of Service); and
- (7) (No change.)
- (d) The costs of any improvements ordered under ~~pursuant to~~ subsection (a)(6) ~~(a)(5)~~ of this section may be paid by bond or other financial assurance in an amount determined by the commission not to exceed the amount of the bond or financial assurance. After notice and hearing, the commission may require a retail public utility to obligate additional money to replace the financial assurance used for the improvements.
- (e) – (f) (No change.)
- (g) An emergency order may be renewed once for a period not to exceed 180 days, except an emergency order issued under ~~pursuant to~~ subsection (a)(4) of this section.

§24.25. Form and Filing of Tariffs.

- (a) **Approved tariff.** A utility may not directly or indirectly demand, charge, or collect any rate or charge, or impose any classifications, practices, rules, or regulations different from those prescribed in its approved tariff filed with the commission or with the municipality exercising original jurisdiction over the utility, except as follows:
- (1) A utility may charge the rates proposed under ~~the~~ Texas Water Code (TWC) §§ 13.187, 13.1871, 13.18715, or 13.1872(c)(2) ~~§13.187 or §13.1871~~ on or after the proposed effective date, unless the proposed effective date of the proposed rates is suspended or the regulatory authority sets interim rates.
 - (2) (No change.)
 - (3) A person who possesses facilities used to provide retail water utility service or a utility that holds a certificate of public convenience and necessity (CCN) to provide retail water service that enters into an agreement in accordance with TWC §13.250(b)(2), may collect charges for sewer services on behalf of another retail public utility on the same bill with its water charges and must ~~shall~~ at the earliest opportunity include a notation on its tariff that it has entered into such an agreement.
 - (4) A utility may enter into a contract with a county to collect solid waste disposal fees and include those fees on the same bill with its water or sewer charges and must ~~shall~~ at the earliest opportunity include a notation on its tariff that it has entered into such an agreement.
- (b) **Requirements as to size, form, identification, minor changes, and filing of tariffs.**
- (1) **Tariffs filed with applications for CCNs.**

- (A) When applying to obtain or amend a CCN, or to add a new water or sewer system or subdivision to its certificated service area, each ~~every~~ utility must ~~shall~~ file its proposed tariff with the commission and any regulatory authority with original rate jurisdiction over the utility.
- (i) For a utility that is under the original rate jurisdiction of the commission, the tariff must include ~~shall contain~~ schedules of all the utility's rates, ~~tolls, charges,~~ rules, and regulations pertaining to all of its utility services ~~service(s)~~ when it applies for a CCN to operate as a utility. The tariff must be on the form prescribed by the commission or another form acceptable to the commission.
- (ii) (No change.)
- (B) If a person applying for a CCN is not currently a retail public utility and would be under the original rate jurisdiction of the commission if the CCN application were approved, the person must ~~shall~~ file a proposed tariff with the commission. The person filing the proposed tariff must ~~shall~~ also:
- (i) – (iii) (No change.)
- (iv) provide an estimated completion date ~~date(s)~~ for the construction of physical plant; ~~plant(s)~~;
- (v) provide an estimate of the date ~~date(s)~~ service will begin for all phases of construction; and
- (vi) (No change.)

- (C) A person under the original rate jurisdiction of the commission who has obtained an approved tariff for the first time must ~~and is under the original rate jurisdiction of the commission shall~~ file a rate change application within 18 months from the date service begins ~~in order~~ to revise its rates to be based on ~~tariff to adjust the rates to a historic test year and to true up the new tariff rates to the historic test year.~~ Any dollar amount collected under the rates initially approved by the commission that exceeds ~~charged during the test year in excess of~~ the revenue requirement established by the commission during the rate change proceeding must ~~shall~~ be reflected as customer contributed capital going forward as an offset to rate base for ratemaking purposes. A Class D utility must file a rate change application under TWC §13.1872(c)(2) to ~~An application for a price index rate adjustment under TWC §13.1872 does not~~ satisfy the requirements of this subparagraph.
- (D) A ~~Every~~ water supply or sewer service corporation must ~~shall~~ file with the commission a complete tariff containing schedules of all its rates, ~~tolls,~~ ~~charges,~~ rules, and regulations pertaining to all ~~of~~ its utility services when it applies to operate as a retail public utility and to obtain or amend a CCN.
- (2) **Minor tariff changes.** Except for an affected county or a utility under the original rate jurisdiction of a municipality, a utility's approved tariff may not be changed or amended without commission approval. Changes to ~~Minor tariff changes shall not be allowed for~~ any fees charged by affiliates, the affiliates. ~~The~~

addition of a new extension policy to a ~~tariff, tariff~~ or modification of an existing extension policy ~~are~~ is not a minor tariff ~~changes, change~~. An affected county may change rates for retail water or sewer service without commission approval, but ~~must shall~~ file a copy of the revised tariff with the commission within 30 days after the effective date of the rate change.

(A) The commission, or regulatory authority, as appropriate, may approve the following minor changes to utility tariffs:

(i) – (ii) (No change.)

(iii) addition of the regulatory assessment fee payable to the Texas Commission on Environmental Quality (TCEQ) ~~TCEQ~~ as a separate item or to be included in the currently authorized rate;

(iv) – (viii) (No change.)

(ix) modifications, updates, or corrections that do not affect a rate may be made to the following information contained in the tariff:

(I) (No change.)

(II) the public water system name ~~name(s)~~ and corresponding identification number ~~number(s)~~ issued by the TCEQ; and

(III) the sewer system names and corresponding discharge permit number ~~number(s)~~ issued by the TCEQ.

(B) The commission, or other regulatory authority, as appropriate, may approve a minor tariff change for a utility to establish reduced rates for a minimal level of retail water service to be provided solely to a class of ~~elderly~~ customers 65 years of age or older to ensure that those customers

receive that level of retail water service at more affordable rates. The ~~regulatory authority shall allow a utility~~ may ~~to~~ establish a fund to receive donations to ~~cover~~ recover the ~~cost~~ costs of providing the reduced rates. A utility may not recover the cost of the reduced rates ~~those costs~~ through charges to ~~its~~ other customer classes.

- (i) To request approval of a rate as defined in this subparagraph, the utility must file a proposed plan for consideration ~~review~~ by the commission. The plan must ~~shall~~ include:
- (I) (No change.)
 - (II) The account or subaccount name and number, as included in the system of accounts described in §24.127(1) of this title (relating to Financial Records and Reports—Uniform System of Accounts), ~~The National Association of Regulatory Utility Commissioners (NARUC) account or subaccount name and number~~ in which the donations will be accounted for, and a clear definition of how the administrative costs of operation of the program will be ~~are~~ accounted for and removed from the cost of service for rate making purposes. Any interest earned on donated funds will be considered a donation to the fund.
 - (III) The proposed ~~An~~ effective date of the program and an example of an annual accounting for donations received and a calculation of all lost revenues and the journal entries

that transfer the funds from the account described in this subparagraph of this clause to the utility's revenue account.

The annual accounting ~~must shall~~ be available for ~~to~~ audit by the commission upon request.

(IV) (No change.)

(ii) For the purpose of clause (i) of this subparagraph, recovery of lost revenues from donations is limited to ~~shall only include~~ the lost revenues due to the difference in the utility's tariffed retail water rates and the reduced rates established by this subparagraph.

(iii) The minimal level of retail water service requested by the utility must not exceed ~~shall be no more than~~ 3,000 gallons per month per connection. Additional gallons used must shall be billed at the utility's tariffed rates.

(iv) (No change.)

(C) If a utility has provided ~~proper~~ notice as required in subparagraph (F) of this paragraph, the commission may approve a pass-through provision as a minor tariff change, even if the utility has never had an approved pass-through provision in its tariff. A pass-through provision may not be approved for a charge already included in the utility's cost of service used to calculate the rates approved by the commission in the utility's most recently approved rate change under TWC §§ 13.187, 13.1871, 13.18715, or 13.1872. ~~§13.187 or TWC § 13.1871.~~ A pass-through provision may only include passing through of the actual costs charged to the utility.

Only the commission staff or the utility may request a hearing on a proposed pass-through provision or a proposed revision or change to a pass-through provision. A pass-through provision may be approved as follows: in the following situation(s):

(i) – (vi) (No change.)

(D) A change in the combined pass-through provision may ~~only~~ be implemented only once per year. The utility must file a true-up report within one month after the end of the true-up period. The report must reconcile both expenses and revenues related to the combined pass-through charge for the true-up period. If the true-up report reflects an over-collection from customers, the utility must change its combined pass-through rate using the confirmed rate changes to charges being passed through and the over-collection from customers reflected in the true-up report. If the true-up report does not reflect an over-collection from the customers, the implementation of a change to the pass-through rate is optional. The change may be effective in a billing cycle within three months after the end of the true-up period as long as the true-up clearly shows the reconciliation between charges by pass-through entities and collections from the customers, and charges from previous years are reconciled. Only expenses charged by the pass-through provider may ~~provider(s) shall~~ be included in the provision. The true-up report must ~~shall~~ include:

(i) – (vi) (No change.)

- (E) For any pass-through provision granted under this section, all charges approved for recovery of pass-through costs must ~~shall~~ be stated separately from all charges by the utility to recover the revenue requirement. Except for a combined pass-through provision, the calculation for a pass-through gallonage rate for a utility with one source of water may be made using the following equation, which is provided as an example: $R=G/(1-L)$, where R is the utility's new proposed pass-through rate, G equals the new gallonage charge by source supplier or conservation district, and L equals the actual line loss reflected as a percentage expressed in decimal format (for example, 8.5% would be expressed as 0.085). Line loss will be considered on a case-by-case basis.
- (F) A utility that requests ~~wishes~~ to revise or implement an approved pass-through provision must ~~shall~~ take the following actions prior to the beginning of the billing period in which the revision takes effect:
- (i) file a written notice with the commission that must include:
 - (I) each ~~the~~-affected CCN number; ~~number(s)~~;
 - (II) a list of each ~~the~~-affected subdivision ~~subdivision(s)~~, public water system (including name ~~name(s)~~) and corresponding number ~~number(s)~~ issued by the TCEQ, ~~TCEQ~~, and the water quality system (including name ~~name(s)~~) and corresponding number ~~number(s)~~ issued by the TCEQ, if applicable;
 - (III) – (VIII) (No change.)

- (ii) (No change.)
- (G) The following provisions apply to surcharges:
 - (i) – (ii) (No change.)
 - (iii) A utility must ~~shall~~ use the revenues collected through a surcharge approved by the commission to cover the costs listed in subparagraph (G)(ii) of this section or only for any purpose the purposes noted in the order approving the surcharge. A utility shall handle the funds in the manner specified in the order approving the surcharge. The utility may redirect or use the revenues for other purposes only after first obtaining the approval of the commission.
 - (iv) (No change.)
- (3) **Tariff revisions and tariffs filed with rate changes.**
 - (A) If the commission is the regulatory authority, the utility must ~~shall~~ file its revisions with the commission. If a proposed tariff revision constitutes an increase in existing rates of a particular customer class or classes, then the commission may require that notice be given.
 - (B) (No change.)
- (4) **Rate schedule.** Each rate schedule must clearly state: ~~state~~
 - (A) the name of each public water system name(s) and the corresponding identification number number(s) issued by the TCEQ, TCEQ or the name of each sewer system name(s) and the corresponding identification

number ~~number(s)~~ issued by the TCEQ for each discharge permit, to which
the schedule is applicable; and ~~permit,~~
(B) the name of each subdivision, city, and county in which the schedule is
applicable.

(5) (No change.)

(c) **Composition of tariffs.** A utility's tariff, including those utilities operating within the corporate limits of a municipality, must contain sections setting forth:

(1) (No change.)

(2) a list of the cities, counties, and subdivisions ~~subdivision(s)~~ in which service is provided, along with each ~~the~~ public water system name ~~name(s)~~ and corresponding identification number ~~number(s)~~ issued by the TCEQ and each sewer system name ~~name(s)~~ and corresponding discharge permit number(s) issued by the TCEQ to which the tariff applies;

(3) each ~~the~~ CCN number ~~number(s)~~ under which service is provided;

(4) – (8) (No change.)

(d) (No change.)

(e) **Availability of tariffs.** Each utility must ~~shall~~ make available to the public at each of its business offices and designated sales offices within Texas all of its tariffs currently on file with the commission or regulatory authority, and its employees must ~~shall~~ lend assistance to persons requesting information and afford these persons an opportunity to examine any such tariffs upon request. The utility must also ~~shall~~ provide copies of any portion of the tariffs at a reasonable cost to a requesting party.

- (f) **Rejection.** Any tariff filed with the commission and found not to be in compliance with this section must ~~shall~~ be returned to the utility with a brief explanation of the reasons for rejection.
- (g) **Change by other regulatory authorities.** Each utility operating within the corporate limits of a municipality exercising original jurisdiction must ~~shall~~ file with the commission its current tariff that has been authorized by the municipality. If changes are made to the utility's tariff for one or more service areas under the jurisdiction of the municipality, the utility must ~~shall~~ file its tariff reflecting the changes along with the ordinance, resolution or order issued by the municipality to authorize the change.
- (h) **Effective date.** The effective date of a tariff change is the date of approval by the regulatory authority, unless otherwise specified by the regulatory authority, in a commission order, or by rule. The effective date of a proposed rate increase under TWC §§13.187, 13.1871, 13.18715, or 13.1872 ~~§13.187 or §13.1871~~ is the proposed date on the notice to customers and the regulatory authority, unless suspended by the regulatory authority.
- (i) **Tariffs filed by water supply or sewer service corporations.** ~~A~~ Every water supply or sewer service corporation must file with the commission, ~~shall file,~~ for informational purposes only, its tariff showing all rates that are subject to the appellate jurisdiction of the commission and that are in force for any utility service, product, or commodity offered. The tariff must include all rates, rules, and regulations relating to utility service or extension of service, each the CCN number under which service is provided, ~~number(s),~~ and all affected counties or cities. If changes are made to the water supply or sewer service corporation's tariff, the water supply or sewer service corporation must

~~shall~~ file the tariff reflecting the changes, along with a cover letter with the effective date of the change. Tariffs filed under this subsection must ~~shall~~ be filed in conformance with §22.71 of this title (relating to Filing of Pleadings, Documents, and Other Materials) and §22.72 of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission).

(j) **Temporary water rate provision for mandatory water use reduction.**

(1) – (2) (No change.)

(3) A utility may request a temporary water rate provision for mandatory water use reduction using the formula in this paragraph to recover 50% or less of the revenues that would otherwise have been lost due to mandatory water use reductions. The formula for a temporary water rate provision for mandatory

water use reduction under this paragraph is $TGC = cgc + [(pr)(cgc)(r)/(1.0-r)]$ where,

~~is:~~ TGC = Temporary gallonage charge cgc = current gallonage charge r = water use reduction expressed as a decimal fraction (the pumping restriction) pr = percentage of revenues to be recovered expressed as a decimal fraction (i.e., 50% = 0.5) $TGC = cgc + [(pr)(cgc)(r)/(1.0-r)]$

(A) The utility must ~~shall~~ file a request for a temporary water rate provision for mandatory water use reduction ~~request~~ and provide customer notice as required by the regulatory authority, but is not required to provide complete financial data to support its existing rates. Notice must include a statement of when the temporary water rate provision would be implemented, a list of all ~~the~~ customer classes ~~class(es)~~ affected, the rates affected, information on how to protest or ~~and/or~~ intervene in the rate

change, the address of the regulatory authority, the time frame for protests, and any other information that is required by the regulatory authority. The utility's existing rates are not subject to review in this proceeding and the utility is only required to support the need for the temporary rate. A request for a temporary water rate provision for mandatory water use reduction under this paragraph is not considered a statement of intent to increase rates subject to the 12-month limitation in §24.29 of this title (relating to Time Between Filings).

(B) The utility must ~~shall~~ establish that the projected revenues that will be generated by the temporary water rate provision are required by the utility to pay reasonable and necessary expenses that will be incurred by the utility during the time mandatory water use reductions are in effect.

(4) A utility may request a temporary water rate provision for mandatory water use reduction using the formula in paragraph (3) of this subsection or any other method acceptable to the regulatory authority to recover up to 100% of the revenues that would otherwise have been lost due to mandatory water use reductions.

(A) If the utility requests authorization to recover more than 50% of lost revenues, the utility must ~~it shall~~ submit financial data to support its existing rates as well as the temporary water rate provision for mandatory water use reduction even if no other rates are proposed to be changed.

The utility's existing rates are subject to review in addition to the temporary water rate provision for mandatory water use reduction.

(B) The utility must ~~shall~~ establish that the projected revenues that will be generated by the temporary water rate provision for mandatory water use reduction are required by the utility to pay reasonable and necessary expenses that will be incurred by the utility during the time mandatory water use reductions are in effect; that the rate of return granted by the regulatory authority in the utility's last rate case does not adequately compensate the utility for the foreseeable risk that mandatory water use reductions will be ordered; and that revenues generated by existing rates do not exceed reasonable cost of service.

(5) – (6) (No change.)

(7) A utility implementing a temporary water rate for mandatory water use reduction must ~~shall~~ take the following actions prior to the beginning of the billing period in which the temporary water rate provision takes effect:

(A) – (B) (No change.)

(8) A utility must ~~shall~~ stop charging a temporary water rate provision as soon as is practicable after the order that required mandatory water use reduction is ended, but in no case later than the end of the billing period that was in effect when the order was ended. The utility must ~~shall~~ notify its customers of the date that the temporary water rate provision ends and that its rates will return to the level authorized before the temporary water rate provision was implemented. The notice provided to customers regarding the end of the temporary water rate provision must ~~shall~~ be filed with the commission.

(9) (No change.)

- (k) (No change.)
- (l) **Regional rates.** The regulatory authority, where practicable, will ~~shall~~ consolidate the rates by region for applications submitted by a Class A, B, or C utility, or a Class D utility filing under TWC §13.1872(c)(2), §13.187 or §13.1874 with a consolidated tariff and rate design for more than one system.
- (m) (No change.)
- (n) **Energy cost adjustment clause.**
- (1) (No change.)
- (2) A utility that requests the inclusion of an energy cost adjustment clause in its tariff must ~~shall~~ file a request with the commission. The utility must ~~shall~~ also give notice of the proposed energy cost adjustment clause by mail, either separately or accompanying customer billings, by e-mail, e-mail or by hand delivery to all affected utility customers at least 60 days prior to the proposed effective date. Proof of notice in the form of an affidavit stating that proper notice was delivered to affected customers and stating the date ~~date(s)~~ of such delivery must ~~shall~~ be filed with the commission by the utility as part of the request. Notice must be provided on a ~~the~~ form prescribed by the commission ~~for a rate application package filed under TWC §13.187 or §13.1874~~ and must contain the following information:
- (A) the utility name and address, a description of how the increase or decrease in energy costs will be calculated, the effective date of the proposed change, and the classes ~~class(es)~~ of utility customers affected. The effective date of the proposed energy cost adjustment clause must be the

first day of a billing period, which should correspond to the day of the month when meters are typically read, and the clause may not apply to service received before the effective date of the clause;

(B) – (C) (No change.)

(3) The commission's review of the utility's request is ~~an uncontested matter~~ not subject to a contested case hearing. However, the commission will ~~shall~~ hold a ~~an~~ ~~uncontested~~ public meeting if requested by a member of the legislature who represents an area served by the utility or if the commission determines that there is substantial public interest in the matter.

(4) Once an energy cost adjustment clause has been approved, documented changes in energy costs must be passed through to the utility's customers within a reasonable time. The pass-through, whether an increase or decrease, must ~~shall~~ be implemented on at least an annual basis, unless the commission determines otherwise, a special circumstance applies. Before making a change to the energy cost adjustment clause, Anytime changes are being made using this provision, notice must ~~shall~~ be provided as required by paragraph (5) of this subsection. Copies of notices to customers must ~~shall~~ be filed with the commission,

(5) Before a utility implements a change in its energy cost adjustment clause as required by paragraph (4) of this subsection, the utility must ~~shall~~ take the following actions prior to the beginning of the billing period in which the implementation takes effect:

(A) – (B) (No change.)

(6) – (7) (No change.)

- (8) A proceeding under this subsection is not a rate case under TWC §§13.187, 13.1871, 13.18715, or 13.1872.

§24.27. Notice of Intent and Application to Change Rates. ~~Rates Pursuant to Texas Water Code §13.187 or § 13.1871.~~

- (a) **Purpose.** This section describes the requirements for the contents of an application to change rates and the requirements for the provision of notice of an application to change rates filed by a Class A, B, or C utility, or a Class D utility filing under Texas Water Code (TWC) §13.1872(c)(2). ~~pursuant to TWC §13.187 or §13.1871.~~
- (b) **Contents of the application.** An application to change rates ~~pursuant to TWC §13.187 or §13.1871~~ is initiated by the filing of the applicable rate filing package, a statement of intent to change rates, and the proposed form and method of notice to customers and other affected entities under ~~pursuant to~~ subsection (c) of this section.
- (1) The application must ~~shall~~ include the commission's rate filing package form and include all required schedules.
- (2) The application must ~~shall~~ be based on a test year as defined in §24.3(37) ~~§24.3(72)~~ of this title (relating to Definitions of Terms).
- (3) For an application filed by a Class A utility, ~~pursuant to TWC §13.187~~, the rate filing package, including each schedule, must ~~shall~~ be supported by pre-filed direct testimony. The pre-filed direct testimony must ~~shall~~ be filed at the same time as the application to change rates.

- (4) For an application filed by a Class B utility, Class C utility, or Class D utility filing under TWC §13.1872(c)(2), pursuant to TWC §13.1871, the applicable rate filing package, including each schedule, ~~must shall~~ be supported by affidavit. The affidavit ~~must shall~~ be filed at the same time as the application to change rates. The utility may file pre-filed direct testimony at the same time as the application to change rates. If the application is set for a hearing, the presiding officer may require the filing of pre-filed direct testimony at a later date.
- (5) **Proof of notice.** Proof of notice in the form of an affidavit stating that proper notice was mailed, e-mailed, or delivered to customers and affected municipalities and stating the dates date(s) of such delivery ~~must shall~~ be filed with the commission by the applicant utility as part of the rate change application.
- (c) Notice requirements specific to applications filed by a Class A Utility under ~~pursuant to~~ TWC §13.187.
- (1) Notice of the application. In order to change rates under ~~pursuant to~~ TWC §13.187, a utility must comply with the following requirements at least 35 days before the effective date of the proposed change.
- (A) (No change.)
- (B) Notice ~~must shall~~ be provided using the commission-approved form and ~~must shall~~ include a description of the process by which a ratepayer may intervene in the proceeding.
- (C) This notice ~~must shall~~ state the docket number assigned to the rate application. Prior to the provision of notice, the utility ~~must shall~~ file a request for the assignment of a docket number for the rate application.

(D) – (E) (No change.)

- (2) **Notice of the hearing.** After the rate application is set for a hearing, the commission ~~will~~ shall give reasonable notice of the hearing, including notice to the governing body of each affected municipality and county. The commission may require the utility to complete this notice requirement. The commission may delegate to an administrative law judge of the State Office of Administrative Hearings the responsibility and authority to give reasonable notice of the hearing, including notice to the governing body of each affected municipality and county.
- (d) **Notice requirements specific to applications filed by Class B, C, and D utilities.**
~~pursuant to TWC §13.1871.~~
- (1) **Notice of the application.** In order to change rates, a Class B or C utility, or a Class D utility filing under TWC §13.1872(c)(2), rates pursuant to TWC §13.1871, a utility must comply with the following requirements at least 35 days before the effective date of the proposed change.
- (A) The utility must file a notice with the commission and provide a copy of the notice to all customers of the utility affected by the proposed rate ~~change, change and~~ to the appropriate offices of each municipality affected by the proposed rate change, and to the Office of Public Utility Counsel.
- (B) Notice ~~must~~ shall be provided using the commission-approved form and ~~must~~ shall include a description of the process by which a ratepayer may file a protest ~~under~~ pursuant to TWC §13.1871(i).

- (C) ~~The For Class B utilities~~ the notice ~~must shall~~ state the docket number assigned to the rate application. Prior to providing notice, a Class B or C utility, or a Class D utility filing under TWC §13.1872(c)(2), must B ~~utilities shall~~ file a request for the assignment of a docket number for the rate application.
- (D) – (E) (No change.)
- (2) **Notice of the hearing.** After the rate application is set for a hearing, the following notice requirements ~~shall~~ apply.
- (A) The commission ~~will shall~~ give reasonable notice of the prehearing conference, hearing, including notice to the governing body of each affected municipality and county. The commission may require the utility to provide complete this notice, notice requirement. The commission may delegate to an administrative law judge of the State Office of Administrative Hearings the responsibility and authority to give reasonable notice for the prehearing conference, hearing, including notice to the governing body of each affected municipality and county.
- (B) A Class B ~~The utility~~ ~~must shall~~ mail notice of the prehearing conference hearing to each affected ratepayer at least 20 days before the prehearing conference, hearing. ~~The notice must include a description of the process by which a ratepayer may intervene in the proceeding.~~
- (C) A Class C utility, or a Class D utility filing under TWC §13.1872(c)(2), must mail, e-mail, or hand deliver notice of the prehearing conference to each affected ratepayer at least 20 days before the prehearing conference.

(D) A notice provided under subparagraph (B) or (C) of this paragraph must include a description of the process by which a ratepayer may intervene in the proceeding.

- (e) **Line extension and construction policies.** A request to approve or amend a utility's line extension and construction policy must ~~shall~~ be filed in a rate change application under TWC §§13.187, 13.1871, 13.18715, or 13.1872(c)(2). ~~§13.187 or §13.1871.~~ The application ~~filed under TWC §13.187 or §13.1871~~ must include the proposed tariff and other information requested by the commission. The request may be made with a request to change one or more of the utility's other rates.
- (f) **Capital improvements surcharge.** In a rate proceeding under ~~pursuant to~~ TWC §§13.187, 13.1871, 13.18715, or 13.1872(c)(2). ~~TWC §13.187 or TWC §13.1871,~~ the commission may approve ~~authorize collection of additional revenues from the customers pursuant to~~ a surcharge to collect ~~provide~~ funds for capital improvements necessary to provide facilities capable of providing continuous and adequate utility service, and for the preparation of design and planning documents.
- (g) **Debt repayments surcharge.** In a rate proceeding under ~~pursuant to~~ TWC §§13.187, 13.1871, 13.18715, or 13.1872(c)(2). ~~TWC §13.187 or TWC §13.1871,~~ the commission may approve ~~authorize collection of additional revenues from customers pursuant to~~ a surcharge to collect ~~provide~~ funds for debt repayments and associated costs, including funds necessary to establish contingency funds and reserve funds. Surcharge funds may be collected to meet all ~~of~~ the requirements of the Texas Water Development Board regarding ~~in regard to~~ financial assistance from the Safe Drinking Water Revolving Fund.

§24.29. Time Between Filings.

- (a) **Application.** The following provisions are applicable to utilities, including those with consolidated or regional tariffs, under common control or ownership with any utility that has filed a statement of intent to increase rates ~~under pursuant to TWC §§13.187, 13.1871, or 13.18715. §13.187 or §13.1871.~~
- (b) A ~~utility, utility~~ or two or more utilities under common control and ~~ownership, ownership~~ may not file a statement of intent to increase rates ~~pursuant to TWC §13.187 or §13.1871~~ more than once in a 12-month period except:
- (1) – (6) (No change.)
- (c) A Class ~~D~~ E utility under common control or ownership with a utility that has filed an application to change rates ~~under pursuant to TWC §§13.187, 13.1871, or 13.18715 §13.187 or §13.1871~~ within the preceding 12 months may not file an application to change rates ~~under pursuant to TWC §13.1872(c)(2) §13.187 or §13.1871~~ unless one of the exceptions it is filed pursuant to an exception listed in subsection (b) of this section applies. ~~section.~~

§24.33. Suspension of the Effective Date of Rates.

- (a) Regardless of, and in addition to, any period of suspension ordered ~~under pursuant to~~ subsection (b) of this section, after written notice to the utility, the commission may suspend the effective date of a rate change for not more than:
- (1) 150 days from the date the proposed rates would otherwise be effective for an application filed ~~under Texas Water Code (TWC) pursuant to TWC~~ §13.187; or
 - (2) 265 days from the date the proposed rates would otherwise be effective for an application filed ~~under pursuant to TWC §§13.1871, 13.18715, or 13.1872(c)(2).~~ §13.1871.
- (b) Regardless of, and in addition to, any period of suspension ordered ~~under pursuant to~~ subsection (a) of this section, the commission may suspend the effective date of a change in rates ~~requested pursuant to TWC §13.187 or §13.1871~~ if the utility:
- (1) has failed to properly complete the rate application as required by §24.27 of this title (relating to Notice of Intent and Application to Change Rates), ~~Rates Pursuant to Texas Water Code §13.187 or §13.1871~~), has failed to comply with the notice requirements and proof of notice requirements, or has for any other

reason filed a request to change rates that is not deemed administratively complete until a properly completed request to change rates is accepted by the commission;

(2) – (3) (No change.)

- (c) If the commission suspends the effective date of a requested change in rates under ~~pursuant to~~ subsection (b) of this section, the requirement under §24.35(b)(1) of this title (relating to Processing and Hearing Requirements for an Application to Change Rates), ~~Filed Pursuant to Texas Water Code §13.187 or §13.1871~~) to begin a hearing within 30 days of the effective date does not apply and the utility may not notify its customers of a new proposed effective date until the utility receives written notification from the commission that all deficiencies have been corrected.
- (d) A suspension ordered under ~~pursuant to~~ subsection (a) of this section will ~~shall~~ be extended two days for each day a hearing on the merits exceeds 15 days.
- (e) If the commission does not make a final determination on the proposed rate before the expiration of the suspension period described by subsections (a) and (d) of this section, the proposed rate will ~~shall~~ be considered approved. This approval is subject to the authority of the commission thereafter to continue a hearing in progress.
- (f) – (g) (No change.)

§24.35. Processing and Hearing Requirements for an Application to Change Rates. ~~Filed Pursuant to Texas Water Code §13.187 or §13.1871.~~

- (a) **Purpose.** This section describes the requirements for the processing of applications to change rates filed by a Class A, B, or C utility, or a Class D utility filing under Texas Water Code (TWC) 13.1872(c)(2). ~~pursuant to TWC §13.187 or §13.1871.~~
- (b) **Proceedings Under ~~pursuant to~~ TWC §13.187.** The following criteria apply to applications to change rates filed by Class A utilities under ~~pursuant to~~ TWC §13.187.
- (1) Not later than the 30th day after the effective date of the change, the commission will ~~shall~~ begin a hearing to determine the propriety of the change.
 - (2) The matter may be referred to the State Office of Administrative Hearings and the referral will ~~shall~~ be deemed to be the beginning of the hearing required by paragraph (1) of this subsection.
 - (3) If the matter is not referred to the State Office of Administrative Hearings, an order establishing a date for a prehearing conference will ~~shall~~ be deemed to be the beginning of the hearing required by paragraph (1) of this subsection.

- (c) **Proceedings Under ~~pursuant to~~ TWC §13.1871.** The following criteria apply to applications to change rates filed by a Class B, C, or D utility, ~~using the procedures in B utility or a Class C utility pursuant to~~ TWC §13.1871.
- (1) (No change.)
 - (2) The commission will ~~shall~~ set the matter for a hearing if it receives a complaint from any affected municipality or protests from the lesser of 1,000 or 10 percent of the affected ratepayers of the utility over whose rates the commission has original jurisdiction, during the first 90 days after the effective date of the proposed rate change.
 - (A) Ratepayers may file individual protests or joint protests. Each protest must contain the following information:
 - (i) (No change.)
 - (ii) the name and service address or other identifying information of each signatory ratepayer. The protest must ~~shall~~ list the address of the location where service is received if it differs from the residential address of the signatory ratepayer.
 - (B) (No change.)
 - (3) Referral to the State Office of Administrative Hearings ~~SOAH~~ at any time during the pendency of the proceeding is deemed to be setting the matter for hearing as required by paragraphs (1) and (2) of this subsection.
 - (4) If the matter is not referred to the State Office of Administrative Hearings, an order establishing a date for a prehearing conference is ~~shall be~~ deemed to be the beginning of the hearing required by paragraph (2) of this subsection.

- (d) If, after hearing, the regulatory authority finds the rates currently being charged or those proposed to be charged are unreasonable or in violation of the law, the regulatory authority ~~will shall~~ determine the rates to be charged by the utility and ~~will shall~~ fix the rates by order served on the utility.
- (e) The utility may begin charging the proposed rates on the proposed effective date, unless the proposed rate change is suspended by the commission ~~under pursuant to~~ §24.33 of this title (relating to Suspension of the Effective Date of Rates) or interim rates are set by the presiding officer ~~under pursuant to~~ §24.37 of this title (relating to Interim Rates). Rates charged under a proposed rate during the pendency of a proceeding are subject to refund to the extent the commission ultimately approves rates that are lower than the proposed rates.

§24.49. Application for a Rate Adjustment by a Class D ~~€~~ Utility Under Texas Water Code §13.1872.

- (a) **Purpose.** This section establishes procedures for a Class D ~~€~~ utility to apply for an adjustment to its water or wastewater rates as allowed by Texas Water Code (TWC) §13.1872(c)(1). ~~TWC §13.1872.~~
- (b) **Definitions.** In this section, the term application means ~~The following words and terms when used in this section have the following meaning unless the context clearly indicates otherwise:~~
- (1) ~~Application~~ -- an application for a rate adjustment filed under this section and TWC §13.1872(c)(1). ~~§13.1872.~~
- (2) ~~Price index~~ -- a price index established annually by the commission for the purposes of this section.
- (c) **Requirements for filing of the application.** Subject to the limitations set out in subsection (f) of this section, a Class D ~~€~~ utility may file an application with the commission.

- (1) The utility may request to increase its tariffed monthly fixed customer or meter charges and monthly gallonage charges by no more than five percent. ~~the lesser of:~~
- (A) ~~five percent ; or~~
- (B) ~~the percentage increase in the price index between the year preceding the year in which the utility requests the adjustment and the year in which the utility requests the adjustment.~~
- (2) (No change.)
- (d) (No change.)
- (e) **Notice of Approved Rates.** After the utility receives a written order by the commission approving or modifying the utility's application, including the proposed notice of approved rates, and at least 30 days before the effective date of the proposed change established in the commission's order, the utility must send by mail, or by e-mail if the ratepayer has agreed to receive communications electronically, the approved or modified notice to each ratepayer describing the proposed rate adjustment. The notice must include:
- (1) a statement that the utility requested an annual a rate adjustment and specifying the percent amount requested; ~~based on the commission's approved price index and must state the percentage change in the price index during the previous year;~~
- ~~and~~
- (2) – (4) (No change.)
- (f) **Time between filings.** The following criteria apply to the timing of the filing of an application.

(1) A Class D utility may adjust its rates under this section not more than once each calendar year and not more than four times between rate proceedings filed under TWC §13.1872(c)(2). ~~described by TWC §13.1871.~~

(2) (No change.)

~~(g) **Establishing the price index.** The commission must, on or before December 1 of each year, establish a price index as required by TWC §13.1872(b) based on the following criteria. The price index will be established in an informal project to be initiated by commission staff. The price index must be equal to the water and sewerage maintenance expenditure category of the Consumer Price Index for All Urban Consumers for the prior 12 months ending on September 30, unless the commission finds that good cause exists to establish a different price index for that year.~~

§24.127. Financial Records and Reports -- Uniform System of Accounts.

~~Each~~ Every public utility, except a utility operated by an affected county, ~~must~~ shall keep uniform accounts as prescribed by the commission of all business transacted. The classification of utilities, index of accounts, definitions, and general instructions pertaining to each uniform system of accounts, as amended from time to time, ~~must~~ shall be adhered to at all times, unless provided otherwise by these sections or by rules of a federal regulatory body having jurisdiction over the utility, or unless specifically permitted by the commission.

- (1) **System of accounts.** For the purpose of accounting and reporting to the commission, each public ~~water and/or sewer~~ utility ~~must~~ shall maintain its books and records in accordance with the commission's approved system of accounts, or if the commission has not approved a system of accounts, the following prescribed uniform system of accounts:
 - (A) Class A Utility, as defined by §24.3(5) ~~§24.3(15)~~ of this title (relating to Definitions of Terms); the uniform system of accounts as adopted and amended by the National Association of Regulatory Utility Commissioners (NARUC) for a utility classified as a NARUC Class A utility.
 - (B) Class B Utility, as defined by §24.3(6) ~~§24.3(16)~~ of this title; the uniform system of accounts as adopted and amended by NARUC for a utility classified as a NARUC Class B utility.
 - (C) Class C Utility, as defined by §24.3(7) ~~§24.3(17)~~ of this title; the uniform system of accounts as adopted and amended by for a utility classified as a NARUC Class C utility.

(D) Class D Utility, as defined by §24.3(8) of this title; the uniform system of accounts as adopted and amended by a utility classified as a NARUC Class C utility.

- (2) **Accounting period.** Each utility must ~~shall~~ keep its books on a monthly basis so that for each month all transactions applicable thereto are ~~shall be~~ entered in the books of the utility.

§24.129. Water and Sewer Utilities Annual Reports.

- (a) Each utility, except a utility operated by an affected county, must ~~shall~~ file a service, financial, and normalized earnings report by June 1 of each year.
- (b) **Contents of report.** The annual report must ~~shall~~ disclose the information required on the forms approved by the commission and may include any additional information required by the commission.
- (c) A Class D ~~E~~ utility's normalized earnings must ~~shall~~ be equal to its actual earnings during the reporting period for the purposes of compliance with Texas Water Code ~~TWC~~ §13.136.
- (d) For reporting year 2019 due on June 1, 2020, each utility, except a utility operated by an affected county, must file the report that corresponds to the Class A, B, or C classification that applied to the utility on August 31, 2019.

§24.227. Criteria for Granting or Amending a Certificate of Convenience and Necessity.

- (a) In determining whether to grant or amend a certificate of convenience and necessity (CCN), the commission ~~will~~ shall ensure that the applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service.
- (1) For retail water utility service, the commission ~~will~~ shall ensure that the applicant has:
- (A) a ~~TCEQ-approved~~ public water system approved by the Texas Commission on Environmental Quality (TCEQ) that is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, chapter 341, TCEQ rules, and the TWC; and
- (B) (No change.)
- (2) For retail sewer utility service, the commission ~~will~~ shall ensure that the applicant has:
- (A) – (B) (No change.)
- (b) (No change.)
- (c) Notwithstanding any other provision of this chapter, a Class A utility may apply to the commission for an amendment of a water or sewer CCN held by a municipal utility district to allow the Class A utility to have the same rights and powers under the CCN as the municipal utility district. The Class A utility must file an application that complies with the requirements of §§24.233(a) and (b) of this title (relating to Contents of Certificate of Convenience and Necessity Applications) and meet the criteria set forth in §24.227 of this title (relating to Criteria for Granting or Amending a Certificate of Convenience and Necessity).

(d) ~~(e)~~ The commission may approve applications and grant or amend a CCN only after finding that granting or amending the CCN is necessary for the service, accommodation, convenience, or safety of the public. The commission may grant or amend the CCN as applied for, or refuse to grant it, or grant it for the construction of only a portion of the contemplated facilities or extension thereof, or for only the partial exercise of the right or privilege and may impose special conditions necessary to ensure that continuous and adequate service is provided.

(e) ~~(d)~~ In considering whether to grant or amend a CCN, the commission will ~~shall~~ also consider:

(1) – (9) (No change.)

(f) ~~(e)~~ The commission may require an applicant seeking to obtain a new CCN or a CCN amendment to provide a bond or other form of financial assurance to ensure that continuous and adequate retail water or sewer utility service is provided. The commission will ~~shall~~ set the amount of financial assurance. The form of the financial assurance will 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.

(g) ~~(f)~~ Where applicable, in addition to the other factors in this chapter the commission will ~~shall~~ consider the efforts of the applicant to extend retail ~~water and/or sewer~~ utility service to any economically distressed areas located within the applicant's certificated service area. For purposes of this subsection, "economically distressed area" has the meaning assigned in TWC §15.001

~~(h)~~ ~~(g)~~ For two or more retail public utilities that apply for a CCN to provide retail water ~~and/or~~ sewer utility service to an unserved area located in an economically distressed area as defined in TWC §15.001, the commission will ~~shall~~ conduct an assessment of the applicants to determine which applicant is more capable financially, managerially and technically of providing continuous and adequate service. The assessment will ~~shall~~ be conducted after the preliminary hearing and only if the parties cannot agree among themselves regarding who will provide service. The assessment will ~~shall~~ be conducted considering the following information:

- (1) all criteria from subsections ~~(a)-(g)~~ ~~(a)-(f)~~ of this section;
- (2) – (11) (No change.)

~~(i)~~ ~~(h)~~ Except as provided by subsection ~~(j)~~ ~~(i)~~ of this section, a landowner who owns a tract of land that is at least 25 acres and that is wholly or partially located within the requested area may elect to exclude some or all of the landowner's property from the requested area by providing written notice to the commission before the 30th day after the date the landowner receives notice of an application for a CCN or for a CCN amendment. The landowner's election is effective without a further hearing or other process by the commission. If a landowner makes an election under this subsection, the requested area must ~~shall~~ be modified to remove the electing landowner's property. An applicant that has land removed from its requested area because of a landowner's election under this subsection may not be required to provide retail water or sewer utility service to the removed land for any reason, including a violation of law or commission rules.

- (1) The landowner's request to opt out of the requested area must ~~shall~~ be filed with the commission and must ~~shall~~ include the following information:

(A) – (C) (No change.)

(2) The applicant must ~~shall~~ file the following mapping information to address each landowner's opt-out request:

(A) a detailed map identifying the revised requested area after removing the tract of land subject to each landowner's opt-out request. The map must ~~shall~~ also identify the outer boundary of each tract of land subject to each landowner's opt-out request, in relation to the revised requested area. The map must ~~shall~~ identify the tract of land and the requested area in reference to verifiable man-made and ~~and/or~~ natural landmarks such as roads, rivers, and railroads;

(B) digital mapping data in a shapefile (SHP) format georeferenced in either NAD 83 Texas State Plane Coordinate System (US Feet) or in NAD 83 Texas Statewide Mapping System (Meters) for the revised requested area after removing each tract of land subject to any landowner's opt-out request. The digital mapping data must ~~shall~~ include a single, continuous polygon record; and

(C) (No change.)

(j) ~~(i)~~ If the requested area is located within the boundaries or extraterritorial jurisdiction of a municipality with a population of more than 500,000 and the municipality or a retail public utility owned by the municipality is the applicant, a landowner is not entitled to make an election under subsection (i) ~~(h)~~ of this section but is entitled to file a request to intervene in order to contest the inclusion of the landowner's property in the requested area at a hearing regarding the application.

§24.363. Temporary Rates for Services Provided for a Nonfunctioning System.

(a) – (c) (No change.)

(d) At the time the commission approves an acquisition of a nonfunctioning retail water or sewer utility service provider under Texas Water Code (TWC) §13.301, the commission must:

(1) determine the duration of the temporary rates to the retail public utility, which must be for a reasonable period; and

(2) rule on the reasonableness of the temporary rates under subsection (a) of this section if the commission did not make a ruling before the application was filed under TWC §13.301.

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 13TH DAY OF DECEMBER 2019 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ANDREA GONZALEZ**