

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

**Subchapter B. RATES, RATE-MAKING, AND RATES/TARIFF CHANGES.**

**§24.28. Processing and Hearing Requirements for an Application Filed Pursuant to Texas Water Code §13.187 or §13.1871.**

- (a) **Purpose.** This section describes requirements for the processing of applications to change rates filed pursuant to TWC §13.187 or §13.1871.
- (b) **Proceedings pursuant to TWC §13.187.** The following criteria apply to applications to change rates filed by Class A utilities pursuant to TWC §13.187.
- (1) Not later than the 30th day after the effective date of the change, the commission 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 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 shall be deemed to be the beginning of the hearing required by paragraph (1) of this section.
- (c) **Proceedings pursuant to TWC §13.1871.** The following criteria apply to applications to change rates filed by a Class B utility or a Class C utility pursuant to TWC §13.1871.
- (1) The commission may set the matter for hearing on its own motion at any time within 120 days after the effective date of the rate change.
  - (2) The commission 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) a clear and concise statement that the ratepayer is protesting a specific rate action of the water or sewer service utility in question; and
      - (ii) the name and service address or other identifying information of each signatory ratepayer. The protest shall list the address of the location where service is received if it differs from the residential address of the signatory ratepayer.
    - (B) For the purposes of this subsection, each person receiving a separate bill is considered a ratepayer, but one person may not be considered more than one ratepayer regardless of the number of bills the person receives. The protest is properly signed if signed by a person, or the spouse of a person, in whose name utility service is carried.
  - (3) Referral to 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 shall be deemed to be the beginning of the hearing required by paragraph (2) of this section.
- (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 shall determine the rates to be charged by the utility and shall fix the rates by order served on the utility.

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- (e) The utility may begin charging the proposed rates on the proposed effective date, unless the proposed rate change is suspended by the commission pursuant to §24.26 of this title (relating to Suspension of the Effective Date of Rates) or interim rates are set by the presiding officer pursuant to §24.29 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.