

PROJECT NO. 47305

PROJECT TO IMPLEMENT HOUSE	§	PUBLIC UTILITY COMMISSION
BILL 2369 WITH PROPOSED	§	
AMENDMENT TO 16 TAC § 24.45 AND	§	OF TEXAS
NEW 16 TAC § 24.46 RELATING TO	§	
FEES CHARGED BY A	§	
MUNICIPALITY TO PUBLIC SCHOOL	§	
DISTRICTS – PURSUANT TO TWC	§	
SECTIONS 13.044, 13.0441, AND 13.088	§	

**ORDER ADOPTING AMENDMENT TO §24.45 AND NEW §24.46
AS APPROVED AT THE JULY 26, 2018 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §24.45 relating to rates charged by a municipality to certain special districts, and adds new §24.46 relating to fees charged by a municipality to a public school district. These amendments are made without changes to the proposed text as published in the May 11, 2018 issue of the Texas Register (43 TexReg 2901). The amendments implement House Bill 2369 (HB 2369) enacted by the 85th Texas Legislature, Regular Session, which amended the title of Texas Water Code (TWC) §13.044 and added new TWC §13.0441 to grant the right of appeal to a public school district (district) receiving water service from a municipality when the district is charged a fee that violates TWC §13.088. The bill also added new TWC §13.088, which prohibits a municipally owned utility that provides retail water or sewer utility service to a district from charging the district a fee based on the number of district students or employees in addition to the rates the municipally owned utility charges the district for the service. This amendment and new section are adopted under Project Number 47305.

A public hearing was not requested; therefore, no hearing was held on the proposed changes. Further, no comments were filed regarding the proposed changes.

The amendments are adopted under TWC §13.0441(b), which provides the commission with the authority to hear appeals regarding fees charged by a municipality to a district based on number of students or employees.

Cross reference to statutes: TWC §13.0441(b).

§24.45. Rates Charged by a Municipality to Certain Special Districts.

- (a) A district created pursuant to Texas Constitution, Article XVI, §59, which district is located within the corporate limits or the extraterritorial jurisdiction of a municipality and which receives water or sewer service or whose residents receive water or sewer service from the municipality may by filing a petition with the commission appeal the rates charged by the municipality if the resolution, ordinance, or agreement of the municipality consenting to the creation of the district required the district to purchase water or sewer service from the municipality.
- (b) The commission shall hear the appeal de novo and the municipality shall have the burden of proof to establish that the rates are just and reasonable.
- (c) After the commission establishes just and reasonable rates, the municipality may not increase those rates without approval of the commission. A municipality desiring to increase rates must provide the commission with updated information in a format specified in the current rate data package developed by the Rates Section.

§24.46. Fees Charged by a Municipality to a Public School District.

- (a) This section applies only to fees charged by a municipality for water or sewer service to a public school district.
- (b) A municipally owned utility that provides retail water or sewer utility service to a public school district may not charge the district, in addition to the rates the utility charges for service, a fee based on the number of district students or employees.
- (c) Notwithstanding the provisions of a resolution, ordinance, or agreement, a public school district charged a fee that violates subsection (b) of this section may appeal the charge by filing a petition with the commission. The commission shall hear the appeal de novo, and the municipality charging the fee has the burden of proof to establish that the fee complies with subsection (b) of this section. The commission shall fix the fees to be charged by the municipality in accordance with this chapter, including subsection (b) of this section.

This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas to amend title of §24.45 relating to rates charged by a municipality to certain special districts; and adopt new §24.46 relating to fees charged by a municipality to a public school district with no changes to the text as proposed.

Signed at Austin, Texas the _____ day of _____ 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER