

PROJECT NO. 45113

**PROJECT TO AMEND CHAPTERS 24 § PUBLIC UTILITY COMMISSION
FOR WATER/SEWER RULES FOR §
RATE APPEALS § OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO § 24.41
AS APPROVED AT THE AUGUST 18, 2016 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §24.41, relating to Appeal of Rate-making Decision, Pursuant to Texas Water Code §13.043.

The proposed amendment will allow the commission’s substantive rule relating to water and sewer rate-making decisions to conform to §4 Senate Bill 1148 (SB 1148) of the 84th Legislature, Regular Session, which amended chapter 13 of the Texas Water Code Annotated (West 2008 & Supp. 2016) (TWC). The proposed amendment will add provisions to §24.41 relating to a person’s access to a municipal water/sewer utility’s ratepayer count and ratepayer names and addresses in order to implement §4 of SB 1148. Additionally, the proposed amendment makes minor changes to clarify the filing procedures for petitions filed pursuant to TWC §13.043(c). Project Number 45113 is assigned to this proceeding.

Tammy Benter, Division Director of the commission’s Water Utility Regulation Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state government and *de minimis* or no fiscal implications for local governments as a result of enforcing or administering the section.

Ms. Benter has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be in compliance with SB 1148. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Benter has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, 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 Monday, October 17, 2016. The request for a public hearing must be received by Monday, October 3, 2016.

Comments on the proposed amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Monday, October 3, 2016. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted by Wednesday, October 12, 2016. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated

with, and benefits that will be gained by, implementation of the proposed amendment. The commission will consider the costs and benefits in deciding whether to amend the identified section. All comments should refer to Project Number 45113.

The amendment is proposed under TWC §13.043, which provides the commission with appellate jurisdiction over water/sewer rate-making decisions and SB 1148.

Cross Reference to Statutes: TWC §13.043 and SB 1148.

§24.41. Appeal of Rate-making Decision, Pursuant to the Texas Water Code §13.043.

- (a) Any party to a rate proceeding before the governing body of a municipality may appeal the decision of the governing body to the commission. This subsection does not apply to a municipally owned utility, but does include privately owned utilities operating within the corporate limits of a municipality. An appeal under this subsection may be initiated by filing with the commission a petition signed by a responsible official of the party to the rate proceeding or its authorized representative and by serving a copy of the petition on all parties to the original proceeding. The petition should be filed in accordance with Chapter 22 of this title (relating to Procedural Rules). The appeal must be initiated within 90 days after the date of notice of the final decision of the governing body, or within 30 days if the appeal relates to the rates of a Class A utility, by filing a petition for review with the commission and by serving a copy of the petition~~opies~~ on all parties to the original rate proceeding.
- (b) (No change.)
- (c) Retail ratepayers of the following entities may appeal the decision of the governing body of the entity affecting their water utility, ~~or~~ sewer utility, or drainage rates to the commission:
- (1)-(2) (No change.)
- (3) a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality;
- (A) A municipally owned utility shall:
- (i) disclose to any person, on request, the number of ratepayer(s) who reside outside the corporate limits of the municipality; and

(ii) subject to subparagraph (B) of this paragraph, provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the corporate limits of the municipality.

(B) If a ratepayer has requested that a municipally owned utility keep the ratepayer's personal information confidential under Tex. Util. Code Ann. §182.052, the municipally owned utility may not disclose the address of the ratepayer under subparagraph (A)(ii) of this paragraph to any person.

(C) In complying with this subsection, the municipally owned utility:

(i) may not charge a fee for disclosing the information under subparagraph (A)(i) of this paragraph;

(ii) shall provide information requested under subparagraph (A)(i) of this paragraph by telephone or in writing as preferred by the person making the request; and

(iii) may charge a reasonable fee for providing information under subparagraph (A)(ii) of this paragraph.

(4)-(6) (No change.)

(d)-(f) (No change.)

(g) An applicant requesting service from an affected county or a water supply or sewer service corporation may appeal to the commission a decision of the county or water supply or sewer service corporation affecting the amount to be paid to obtain service other than the regular membership or tap fees. An appeal under TWC §13.043(g) must be initiated within 90 days after written notice of the amount to be paid to obtain service is provided to the service applicant or member of the decision of an affected county or water supply or sewer

service corporation affecting the amount to be paid to obtain service as requested in the applicant's initial request for that service.

- (1) If the commission finds the amount charged to be clearly unreasonable, it shall establish the fee to be paid and shall establish conditions for the applicant to pay any ~~amount(s)~~~~amounts~~ due to the affected county or water supply or sewer service corporation. Unless otherwise ordered, any portion of the charges paid by the applicant that exceed the ~~amount(s)~~~~amount~~ determined in the commission's order shall be ~~refunded~~~~repaid~~ to the applicant within 30 days of the date the commission issues the order, at an interest rate determined by the commission~~with interest at a rate determined by the commission within 30 days of the signing of the order.~~

(2)-(3) (No change.)

(h)-(j) (No change.)

**ISSUED IN AUSTIN, TEXAS ON THE 18TH DAY OF AUGUST 2016 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**