

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

Subchapter G. CERTIFICATES OF CONVENIENCE AND NECESSITY.

§24.103. Certificate of Convenience and Necessity Not Required.

(a) **Extension of Service.**

- (1) Except for a utility or water supply or sewer service corporation that possesses a facilities-only certificate of convenience and necessity (CCN), a retail public utility is not required to obtain a CCN for:
 - (A) an extension into territory contiguous to that already served by the retail public utility if:
 - (i) the point of ultimate use is within one quarter mile of the outer boundary of its existing certificated service area;
 - (ii) the area is not receiving similar service from another retail public utility; and
 - (iii) the area is not located inside another retail public utility's certificated service area; or
 - (B) an extension within or to territory already served by it or to be served by it under a CCN.
- (2) Whenever an extension is made under paragraph (1)(A) of this subsection, the utility or water supply or sewer service corporation making the extension must inform the commission of the extension by submitting within 30 days of the date service is commenced, a copy of a map of the service area clearly showing the extension, accompanied by a written explanation of the extension.

(b) **Construction of Facilities.** A CCN is not required for the construction or upgrading of distribution facilities within the retail public utility's certificated service area, or for the purchase or condemnation of real property for use as facility sites or rights-of-way. Prior acquisition of facility sites or rights-of-way, and prior construction or upgrading of distribution facilities, does not entitle a retail public utility to be granted a CCN or CCN amendment without a showing that the proposed CCN or CCN amendment is necessary for the service, accommodation, convenience, or safety of the public.

(c) **Single Certification Under TWC §13.255.** A municipality that has given notice under TWC §13.255 that it intends to provide retail water or sewer utility service to an area or to customers not currently being served is not required to obtain a CCN prior to commencing service in the area if the municipality:

- (1) provides a copy of the notice required in TWC §13.255 to the retail public utility;
- (2) files a copy of the notice with the commission; and
- (3) files an application for single certification as required by TWC §13.255 and §24.120 of this title (relating to Single Certification in Incorporated or Annexed Areas).

(d) **Municipal Systems in Unserved Area.**

- (1) This subsection applies only to a home-rule municipality that is:
 - (A) located in a county with a population of more than 1.75 million; and
 - (B) adjacent to a county with a population of more than 1 million and has within its boundaries a part of a district.
- (2) If a district does not establish a fire department under TWC §49.352, a municipality that contains a part of the district inside its boundaries may by ordinance or resolution provide that a water system be constructed or extended into the area that is in both the municipality and the district for the delivery of potable water for fire flow that is sufficient to support the placement of fire hydrants and the connection of the water system to fire suppression equipment.
- (3) For purposes of this subsection, a municipality may obtain single certification in the manner provided by TWC §13.255, except that the municipality may file an application with the commission to grant single certification immediately after the municipality provides notice of intent to provide service as required by TWC §13.255(b).

(e) **Water Utility or Water Supply Corporation With Less Than 15 Potential Connections.**

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- (1) A water utility or water supply corporation is exempt from the requirement to possess a CCN to provide retail water utility service if it:
 - (A) has less than 15 potential service connections;
 - (B) is not owned by or affiliated with a retail public water utility, or any other entity, that provides potable water service;
 - (C) is not located within the certificated service area of another retail public water utility; and
 - (D) is not within the corporate boundaries of a district or municipality unless it receives written authorization from the district or municipality.
- (2) A water utility or water supply corporation with less than 15 potential connections currently operating under a CCN may request cancellation of the CCN at any time.
- (3) The commission may cancel the current CCN upon written request by the exempt utility or water supply corporation.
- (4) An exempt utility shall comply with the service rule requirements in the Exempt Utility Tariff Form prescribed by the commission which shall not be more stringent than those in §§24.80 - 24.90 of this title (relating to Customer Service and Protection).
- (5) The exempt utility shall provide a copy of its tariff to each future customer at the time service is requested and upon request to each current customer.
- (6) An applicant requesting registration status as an exempt utility shall comply with the mapping documents as prescribed in §24.119(a)(2)-(3) of this title (relating to Mapping Requirements for Certificate of Convenience and Necessity Applications).
- (7) Exempt-Utility Tariff and Rate Change Requirements. An exempt utility operating under registration status as an exempt utility:
 - (A) must maintain a current copy of the exempt-utility's tariff with its current rates at its business location; and
 - (B) may change its rates without following the requirements in §24.22 of this title (relating to Notice of Intent and Application to Change Rates Pursuant to Texas Water Code §13.187 or §13.1871) if it provides each customer with written notice of the rate change prior to the effective date of the rate change. The written notice shall indicate the old rates, the new rates, the effective date of the new rates, and the address of the commission along with a statement that written comments or requests to intervene may be filed with the commission at the following mailing address: Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. If the commission receives written comments or requests to intervene from at least 50% of the customers of an exempt utility within 90 days after the effective date of the rate change, the commission shall review the exempt utility's records or other information relating to the cost of providing service. After reviewing the information and any comments or requests to intervene from customers or the exempt utility, the commission shall establish the rates to be charged by the exempt utility. Those rates shall be effective on the date originally noticed by the exempt utility unless a different effective date is agreed to by the exempt utility and intervenors. These rates may not be changed for 12 months after the proposed effective date without authorization by the commission. The exempt utility shall refund any rates collected in excess of the rates established by the commission in accordance with the time frames or other requirements established by the commission.
 - (C) The exempt utility or water supply corporation, Office of Public Utility Counsel, commission staff, or any affected customer may file a written motion for rehearing. The rates determined by the commission shall remain in effect while the commission considers the motion for rehearing.
- (8) Unless authorized in writing by the commission, an exempt water utility or a water supply corporation operating under these requirements may not cease operations. An exempt water

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utility may not discontinue service to a customer with or without notice except in accordance with its commission approved exempt-utility tariff and an exempt water supply corporation may not discontinue service to a customer for any reason not in accordance with its bylaws.

- (9) An exempt water utility or water supply corporation operating under this exemption which does not comply with the requirements of these rules or the minimum requirements of the exempt-utility tariff approved by the commission shall be subject to any and all enforcement remedies provided by this chapter and TWC chapter 13.