

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

Subchapter A. GENERAL PROVISIONS.

§24.14. Emergency Orders and Emergency Rates.

- (a) The commission may issue an emergency order in accordance with 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 §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 §13.412;
 - (2) to compel a retail public utility 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 actions or inactions;
 - (3) to compel a retail public utility to provide an emergency interconnection with a neighboring retail public utility for the provision of temporary water or sewer service, or both, for not more than 90 days if discontinuance of service or serious impairment in service is imminent or has occurred;
 - (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 TWC §13.4133:
 - (A) for a utility for which a person has been appointed under TWC §13.4132 to temporarily manage and operate the utility; or
 - (B) for a utility for which a receiver has been appointed under TWC §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) to compel a retail public utility to make specified improvements and repairs to a water or sewer system owned or operated by the utility under TWC §13.253(b):
 - (A) if the commission has reason to believe that improvements and repairs to a water or sewer service system are necessary to enable a retail public utility to provide continuous and adequate service in any portion of its service area;
 - (B) after providing a retail public utility notice and an opportunity to be heard at an open meeting of the commission; and
 - (C) if the retail public utility has provided financial assurance under Texas Health and Safety Code §341.0355 or TWC Chapter 13;
 - (7) to order an improvement in service or an interconnection under TWC §13.253(a)(1)-(3).
- (b) The commission may establish reasonable compensation for temporary service ordered under subsection (a)(3) of this section and may allow the retail public utility receiving the service to make a temporary adjustment to its rate structure to ensure proper payment.
- (c) For an emergency order issued under subsection (a)(4) of this section:
- (1) the commission will coordinate with the TCEQ as needed;
 - (2) an emergency rate increase may be granted for a period not to exceed 15 months from the date on which the increase takes effect;
 - (3) the additional revenues collected under an emergency rate increase are subject to refund if the commission finds that the rate increase was larger than necessary to ensure continuous and adequate service;
 - (4) the effective date of the emergency rates must be the first day of a billing cycle, unless otherwise authorized by the commission;
 - (5) any emergency rate increase related to charges for actual consumption will be for consumption after the effective date. An increase or the portion of an increase that is not related to consumption

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- may be billed at the emergency rate on the effective date or the first billing cycle after approval by the commission;
- (6) the utility must 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) during the pendency of the emergency rate increase, the commission may require that the utility deposit all or part of the rate increase into an interest-bearing escrow account as set forth in §24.39 of this title (relating to Escrow of Proceeds Received under Rate Increase).
- (d) The costs of any improvements ordered under subsection (a)(6) 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) An emergency order issued under this subchapter does not vest any rights and expires in accordance with its terms or this subchapter.
 - (f) An emergency order issued under this subchapter must be limited to a reasonable time as specified in the order. Except as otherwise provided by this chapter, the term of an emergency order may not exceed 180 days.
 - (g) An emergency order may be renewed once for a period not to exceed 180 days, except an emergency order issued under subsection (a)(4) of this section.