

AN ACT

relating to requirements for the purchase or acquisition of certain water and sewer systems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 13.301, Water Code, is amended by amending Subsection (h) and adding Subsections (l), (m), and (n) to read as follows:

(h) A sale, acquisition, lease, or rental of any water or sewer system owned by an entity required by law to possess a certificate of public convenience and necessity, or a sale or acquisition of or merger or consolidation with such an entity, that is not completed in accordance with the provisions of this section is void. The utility commission shall approve a transaction to which this section applies without an owner's signature required by other law if the owner has abandoned operation of the facilities that are the subject of the transaction and cannot be located or does not respond to an application filed under Subsection (l).

(l) Notwithstanding any other provision of this section, the utility commission by rule shall adopt an expedited process that allows a person appointed by the utility commission or commission under Section 13.4132 as a temporary manager of a utility, utility in receivership, or utility in supervision, who is also an operator of a Class A or Class B utility to apply for utility commission approval of the person's acquisition of the stock,

1 ownership interest, or assets of the temporarily managed and
2 operated utility, utility in receivership, or utility in
3 supervision, its facilities, and, if applicable, its certificated
4 service area. The expedited process must:

5 (1) waive public notice requirements regardless of
6 whether the person elects to charge initial rates in accordance
7 with Section 13.3011 or use a voluntary valuation determined under
8 Section 13.305;

9 (2) require approval of the acquisition transaction if
10 the transaction is considered to be in the public interest; and

11 (3) provide that:

12 (A) the person's appointment is considered
13 sufficient to demonstrate adequate financial, managerial, and
14 technical capability for providing continuous and adequate service
15 to the service area to be acquired and any areas currently
16 certificated to the person; and

17 (B) all used and useful invested capital and just
18 and reasonable operations and maintenance costs incurred by the
19 person during the person's appointment as temporary manager and
20 operator of the utility, utility in receivership, or utility in
21 supervision to be acquired are considered to be a regulatory asset
22 for the person and are recoverable in the person's next
23 comprehensive rate proceeding or system improvement charge
24 application.

25 (m) If a temporary rate under Section 13.046 is adopted
26 during the period described by Subsection (1)(3)(B), all used and
27 useful invested capital and just and reasonable operations and

1 maintenance costs incurred by the person in excess of costs covered
2 by the temporary rate are considered to be a regulatory asset for
3 the person and are recoverable in the person's next comprehensive
4 rate proceeding or system improvement charge application.

5 (n) The utility commission and commission shall provide a
6 reasonable period for a person acquiring a utility under Subsection
7 (1) to bring the acquired utility into compliance with utility
8 commission and commission rules before imposing a penalty for any
9 violation committed by the acquired utility for which no
10 enforcement action has been completed at the time of acquisition.

11 SECTION 2. This Act takes effect September 1, 2023.

S.B. No. 1965

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1965 passed the Senate on April 12, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1965 passed the House on April 28, 2023, by the following vote: Yeas 136, Nays 8, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor