

AN ACT

relating to certificates of public convenience and necessity for water service and sewer service.

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

SECTION 1. Section 13.002, Water Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Affected person" means any landowner within an area for which a certificate of public convenience and necessity is filed, any retail public utility affected by any action of the regulatory authority, any person or corporation whose utility service or rates are affected by any proceeding before the regulatory authority, or any person or corporation that is a competitor of a retail public utility with respect to any service performed by the retail public utility or that desires to enter into competition.

(1-a) "Landowner," "owner of a tract of land," and "owners of each tract of land" include multiple owners of a single deeded tract of land.

SECTION 2. Section 13.241(a), Water Code, is amended to read as follows:

(a) In determining whether to grant or amend a certificate of public convenience and necessity, the commission shall ensure that the applicant possesses the financial, managerial, and

1 technical capability to provide continuous and adequate service.

2 SECTION 3. Section 13.242, Water Code, is amended by adding  
3 Subsection (d) to read as follows:

4 (d) A supplier of wholesale water or sewer service may not  
5 require a purchaser to obtain a certificate of public convenience  
6 and necessity if the purchaser is not otherwise required by this  
7 chapter to obtain the certificate.

8 SECTION 4. Section 13.244, Water Code, is amended to read as  
9 follows:

10 Sec. 13.244. APPLICATION; MAPS AND OTHER INFORMATION;  
11 EVIDENCE AND CONSENT. (a) To obtain a certificate of public  
12 convenience and necessity or an amendment to a certificate, a [A]  
13 public utility or water supply or sewer service corporation shall  
14 submit to the commission an application for [~~to obtain~~] a  
15 certificate [~~of public convenience and necessity~~] or for an  
16 amendment as provided by this section [~~of a certificate~~].

17 (b) Each [~~On request by the commission, each~~] public utility  
18 and water supply or sewer service corporation shall file with the  
19 commission a map or maps showing all its facilities and  
20 illustrating separately facilities for production, transmission,  
21 and distribution of its services, and each certificated retail  
22 public utility shall file with the commission a map or maps showing  
23 any facilities, customers, or area currently being served outside  
24 its certificated areas.

25 (c) Each applicant for a certificate or for an amendment  
26 shall file with the commission evidence required by the commission  
27 to show that the applicant has received the required consent,

1 franchise, or permit of the proper municipality or other public  
2 authority.

3 (d) An application for a certificate of public convenience  
4 and necessity or for an amendment to a certificate must contain:

5 (1) a description of the proposed service area by:

6 (A) a metes and bounds survey certified by a  
7 licensed state land surveyor or a registered professional land  
8 surveyor;

9 (B) the Texas State Plane Coordinate System;

10 (C) verifiable landmarks, including a road,  
11 creek, or railroad line; or

12 (D) if a recorded plat of the area exists, lot and  
13 block number;

14 (2) a description of any requests for service in the  
15 proposed service area;

16 (3) a capital improvements plan, including a budget  
17 and estimated timeline for construction of all facilities necessary  
18 to provide full service to the entire proposed service area;

19 (4) a description of the sources of funding for all  
20 facilities;

21 (5) to the extent known, a description of current and  
22 projected land uses, including densities;

23 (6) a current financial statement of the applicant;

24 (7) according to the tax roll of the central appraisal  
25 district for each county in which the proposed service area is  
26 located, a list of the owners of each tract of land that is:

27 (A) at least 50 acres; and

1                   (B) wholly or partially located within the  
2 proposed service area; and

3                   (8) any other item required by the commission.

4           SECTION 5. Subchapter G, Chapter 13, Water Code, is amended  
5 by adding Sections 13.245 and 13.2451 to read as follows:

6           Sec. 13.245. MUNICIPAL BOUNDARIES OR EXTRATERRITORIAL  
7 JURISDICTION OF CERTAIN MUNICIPALITIES. (a) This section applies  
8 only to a municipality with a population of 500,000 or more.

9           (b) Except as provided by Subsection (c), the commission may  
10 not grant to a retail public utility a certificate of public  
11 convenience and necessity for a service area within the boundaries  
12 or extraterritorial jurisdiction of a municipality without the  
13 consent of the municipality. The municipality may not unreasonably  
14 withhold the consent. As a condition of the consent, a municipality  
15 may require that all water and sewer facilities be designed and  
16 constructed in accordance with the municipality's standards for  
17 facilities.

18           (c) If a municipality has not consented under Subsection (b)  
19 before the 180th day after the date the municipality receives the  
20 retail public utility's application, the commission shall grant the  
21 certificate of public convenience and necessity without the consent  
22 of the municipality if the commission finds that the municipality:

23                   (1) does not have the ability to provide service; or

24                   (2) has failed to make a good faith effort to provide  
25 service on reasonable terms and conditions.

26           (d) A commitment described by Subsection (c)(2) must  
27 provide that the construction of service facilities will begin

1 within one year and will be substantially completed within two  
2 years after the date the retail public utility's application was  
3 filed with the municipality.

4 (e) If the commission makes a decision under Subsection (d)  
5 regarding the grant of a certificate of public convenience and  
6 necessity without the consent of the municipality, the municipality  
7 or the retail public utility may appeal the decision to the  
8 appropriate state district court. The court shall hear the petition  
9 within 120 days after the date the petition is filed. On final  
10 disposition, the court may award reasonable fees to the prevailing  
11 party.

12 Sec. 13.2451. EXTENSION BEYOND EXTRATERRITORIAL  
13 JURISDICTION. (a) Except as provided by Subsection (b), if a  
14 municipality extends its extraterritorial jurisdiction to include  
15 an area certificated to a retail public utility, the retail public  
16 utility may continue and extend service in its area of public  
17 convenience and necessity under the rights granted by its  
18 certificate and this chapter.

19 (b) The commission may not extend a municipality's  
20 certificate of public convenience and necessity beyond its  
21 extraterritorial jurisdiction without the written consent of the  
22 landowner who owns the property in which the certificate is to be  
23 extended. The portion of any certificate of public convenience and  
24 necessity that extends beyond the extraterritorial jurisdiction of  
25 the municipality without the consent of the landowner is void.

26 SECTION 6. Section 13.246, Water Code, is amended by  
27 amending Subsections (a), (b), (c), and (d) and adding Subsections

1 (a-1), (h), and (i) to read as follows:

2 (a) If an application for a certificate of  
3 public convenience and necessity or for an amendment to a  
4 certificate is filed, the commission shall cause notice of the  
5 application to be given to affected parties and, if requested,  
6 shall fix a time and place for a hearing and give notice of the  
7 hearing. Any person affected by the application may intervene at  
8 the hearing.

9 (a-1) Except as otherwise provided by this subsection, in  
10 addition to the notice required by Subsection (a), the commission  
11 shall require notice to be mailed to each owner of a tract of land  
12 that is at least 50 acres and is wholly or partially included in the  
13 area proposed to be certified. Notice required under this  
14 subsection must be mailed by first class mail to the owner of the  
15 tract according to the most current tax appraisal rolls of the  
16 applicable central appraisal district at the time the commission  
17 received the application for the certificate or amendment. Good  
18 faith efforts to comply with the requirements of this subsection  
19 shall be considered adequate notice to landowners. Notice under  
20 this subsection is not required for a matter filed with the  
21 commission under:

22 (1) Section 13.248 or 13.255; or

23 (2) Chapter 65.

24 (b) The commission may grant applications and issue  
25 certificates and amendments to certificates only if the commission  
26 finds that a certificate or amendment is necessary for the service,  
27 accommodation, convenience, or safety of the public. The

1 commission may issue a certificate or amendment as requested, or  
2 refuse to issue it, or issue it for the construction of only a  
3 portion of the contemplated system or facility or extension, or for  
4 the partial exercise only of the right or privilege and may impose  
5 special conditions necessary to ensure that continuous and adequate  
6 service is provided.

7 (c) Certificates of public convenience and necessity and  
8 amendments to certificates shall be granted on a nondiscriminatory  
9 basis after consideration by the commission of:

10 (1) the adequacy of service currently provided to the  
11 requested area;

12 (2) [~~7~~] the need for additional service in the  
13 requested area, including whether any landowners, prospective  
14 landowners, tenants, or residents have requested service;

15 (3) [~~7~~] the effect of the granting of a certificate  
16 or of an amendment on the recipient of the certificate or amendment,  
17 on the landowners in the area, and on any retail public utility of  
18 the same kind already serving the proximate area;

19 (4) [~~7~~] the ability of the applicant to provide  
20 adequate service, including meeting the standards of the  
21 commission, taking into consideration the current and projected  
22 density and land use of the area;

23 (5) the feasibility of obtaining service from an  
24 adjacent retail public utility;

25 (6) the financial ability of the applicant to pay for  
26 the facilities necessary to provide continuous and adequate service  
27 and [~~7~~] the financial stability of the applicant, including, if

1 applicable, the adequacy of the applicant's debt-equity ratio;

2 (7) [7] environmental integrity;

3 (8) [7, and] the probable improvement of service or  
4 lowering of cost to consumers in that area resulting from the  
5 granting of the certificate or amendment; and

6 (9) the effect on the land to be included in the  
7 certificated area.

8 (d) The commission may require an applicant for a  
9 certificate or for an amendment [utility] to provide a bond or other  
10 financial assurance in a form and amount specified by the  
11 commission to ensure that continuous and adequate utility service  
12 is provided.

13 (h) Except as provided by Subsection (i), a landowner who  
14 owns a tract of land that is at least 25 acres and that is wholly or  
15 partially located within the proposed service area may elect to  
16 exclude some or all of the landowner's property from the proposed  
17 service area by providing written notice to the commission before  
18 the 30th day after the date the landowner receives notice of a new  
19 application for a certificate of public convenience and necessity  
20 or for an amendment to an existing certificate of public  
21 convenience and necessity. The landowner's election is effective  
22 without a further hearing or other process by the commission. If a  
23 landowner makes an election under this subsection, the application  
24 shall be modified so that the electing landowner's property is not  
25 included in the proposed service area.

26 (i) A landowner is not entitled to make an election under  
27 Subsection (h) but is entitled to contest the inclusion of the



1 landowner's property in the proposed service area at a hearing held  
2 by the commission regarding the application if the proposed service  
3 area is located within the boundaries or extraterritorial  
4 jurisdiction of a municipality with a population of more than  
5 500,000 and the municipality or a utility owned by the municipality  
6 is the applicant.

7 SECTION 7. The heading to Section 13.247, Water Code, is  
8 amended to read as follows:

9 Sec. 13.247. AREA [~~INCLUDED~~] WITHIN MUNICIPALITY [~~CITY,~~  
10 ~~TOWN, OR VILLAGE~~].

11 SECTION 8. Section 13.247, Water Code, is amended by  
12 amending Subsections (a) and (c) and adding Subsection (d) to read  
13 as follows:

14 (a) If an area [~~has been or~~] is [~~included~~] within the  
15 boundaries of a municipality [~~city as the result of annexation,~~  
16 ~~incorporation, or otherwise~~], all retail public utilities  
17 certified or entitled to certification under this chapter to  
18 provide service or operate facilities in that area [~~before the~~  
19 ~~inclusion~~] may continue and extend service in its area of public  
20 convenience and necessity within the [~~annexed or incorporated~~] area  
21 pursuant to the rights granted by its certificate and this chapter,  
22 unless the municipality exercises its power of eminent domain to  
23 acquire the property of the retail public utility under Subsection  
24 (d). Except as provided by Section 13.255 [~~of this code~~], a  
25 municipally owned or operated utility may not provide retail water  
26 and sewer utility service within the area certificated to another  
27 retail public utility without first having obtained from the

1 commission a certificate of public convenience and necessity that  
2 includes the areas to be served.

3 (c) This section may not be construed as limiting the power  
4 of municipalities [~~cities~~] to incorporate or extend their  
5 boundaries by annexation, or as prohibiting any municipality [~~city~~]  
6 from levying taxes and other special charges for the use of the  
7 streets as are authorized by Section 182.025, Tax Code.

8 (d) In addition to any other rights provided by law, a  
9 municipality with a population of more than 500,000 may exercise  
10 the power of eminent domain in the manner provided by Chapter 21,  
11 Property Code, to acquire a substandard water or sewer system if all  
12 the facilities of the system are located entirely within the  
13 municipality's boundaries. The municipality shall pay just and  
14 adequate compensation for the property. In this subsection,  
15 "substandard water or sewer system" means a system that is not in  
16 compliance with the municipality's standards for water and  
17 wastewater service.

18 SECTION 9. Section 13.254, Water Code, is amended by  
19 amending Subsections (a), (e), and (g) and adding Subsections (a-1)  
20 through (a-4) and (g-1) to read as follows:

21 (a) The commission at any time after notice and hearing may,  
22 on its own motion or on receipt of a petition described by  
23 Subsection (a-1), revoke or amend any certificate of public  
24 convenience and necessity with the written consent of the  
25 certificate holder or if it finds that:

26 (1) the certificate holder has never provided, is no  
27 longer providing, is incapable of providing, or has failed to

1 provide continuous and adequate service in the area, or part of the  
2 area, covered by the certificate;

3 (2) in an affected county as defined in Section  
4 16.341, the cost of providing service by the certificate holder is  
5 so prohibitively expensive as to constitute denial of service,  
6 provided that, for commercial developments or for residential  
7 developments started after September 1, 1997, in an affected county  
8 as defined in Section 16.341, the fact that the cost of obtaining  
9 service from the currently certificated retail public utility makes  
10 the development economically unfeasible does not render such cost  
11 prohibitively expensive in the absence of other relevant factors;

12 (3) the certificate holder has agreed in writing to  
13 allow another retail public utility to provide service within its  
14 service area, except for an interim period, without amending its  
15 certificate; or

16 (4) the certificate holder has failed to file a cease  
17 and desist action pursuant to Section 13.252 within 180 days of the  
18 date that it became aware that another retail public utility was  
19 providing service within its service area, unless the certificate  
20 holder demonstrates good cause for its failure to file such action  
21 within the 180 days.

22 (a-1) As an alternative to decertification under Subsection  
23 (a), the owner of a tract of land that is at least 50 acres and that  
24 is not in a platted subdivision actually receiving water or sewer  
25 service may petition the commission under this subsection for  
26 expedited release of the area from a certificate of public  
27 convenience and necessity so that the area may receive service from

1 another retail public utility. The petitioner shall deliver, via  
2 certified mail, a copy of the petition to the certificate holder,  
3 who may submit information to the commission to controvert  
4 information submitted by the petitioner. The petitioner must  
5 demonstrate that:

6 (1) a written request for service, other than a  
7 request for standard residential or commercial service, has been  
8 submitted to the certificate holder, identifying:

9 (A) the area for which service is sought;

10 (B) the timeframe within which service is needed  
11 for current and projected service demands in the area;

12 (C) the level and manner of service needed for  
13 current and projected service demands in the area; and

14 (D) any additional information requested by the  
15 certificate holder that is reasonably related to determination of  
16 the capacity or cost for providing the service;

17 (2) the certificate holder has been allowed at least  
18 90 calendar days to review and respond to the written request and  
19 the information it contains;

20 (3) the certificate holder:

21 (A) has refused to provide the service;

22 (B) is not capable of providing the service on a  
23 continuous and adequate basis within the timeframe, at the level,  
24 or in the manner reasonably needed or requested by current and  
25 projected service demands in the area; or

26 (C) conditions the provision of service on the  
27 payment of costs not properly allocable directly to the

1 petitioner's service request, as determined by the commission; and

2 (4) the alternate retail public utility from which the  
3 petitioner will be requesting service is capable of providing  
4 continuous and adequate service within the timeframe, at the level,  
5 and in the manner reasonably needed or requested by current and  
6 projected service demands in the area.

7 (a-2) A landowner is not entitled to make the election  
8 described in Subsection (a-1) but is entitled to contest the  
9 involuntary certification of its property in a hearing held by the  
10 commission if the landowner's property is located:

11 (1) within the boundaries of any municipality or the  
12 extraterritorial jurisdiction of a municipality with a population  
13 of more than 500,000 and the municipality or retail public utility  
14 owned by the municipality is the holder of the certificate; or

15 (2) in a platted subdivision actually receiving water  
16 or sewer service.

17 (a-3) Within 90 calendar days from the date the commission  
18 determines the petition filed pursuant to Subsection (a-1) to be  
19 administratively complete, the commission shall grant the petition  
20 unless the commission makes an express finding that the petitioner  
21 failed to satisfy the elements required in Subsection (a-1) and  
22 supports its finding with separate findings and conclusions for  
23 each element based solely on the information provided by the  
24 petitioner and the certificate holder. The commission may grant or  
25 deny a petition subject to terms and conditions specifically  
26 related to the service request of the petitioner and all relevant  
27 information submitted by the petitioner and the certificate holder.

1 In addition, the commission may require an award of compensation as  
2 otherwise provided by this section.

3 (a-4) Chapter 2001, Government Code, does not apply to any  
4 petition filed under Subsection (a-1). The decision of the  
5 commission on the petition is final after any reconsideration  
6 authorized by the commission's rules and may not be appealed.

7 (e) The determination of the monetary amount of  
8 compensation, if any, shall be determined at the time another  
9 retail public utility seeks to provide service in the previously  
10 decertified area and before service is actually provided. The  
11 commission shall ensure that the monetary amount of compensation is  
12 determined not later than the 90th calendar day after the date on  
13 which a retail public utility notifies the commission of its intent  
14 to provide service to the decertified area.

15 (g) For the purpose of implementing this section, the value  
16 of real property owned and utilized by the retail public utility for  
17 its facilities shall be determined according to the standards set  
18 forth in Chapter 21, Property Code, governing actions in eminent  
19 domain and the value of personal property shall be determined  
20 according to the factors in this subsection. The factors ensuring  
21 that the compensation to a retail public utility [~~for the taking,~~  
22 ~~damaging, or loss of personal property, including the retail public~~  
23 ~~utility's business,~~] is just and adequate shall [~~at a minimum~~]  
24 include: the amount of the retail public utility's debt allocable  
25 for service to the area in question [~~the impact on the existing~~  
26 ~~indebtedness of the retail public utility and its ability to repay~~  
27 ~~that debt~~]; the value of the service facilities of the retail

1 public utility located within the area in question; the amount of  
2 any expenditures for planning, design, or construction of service  
3 facilities that are allocable to service to the area in question;  
4 the amount of the retail public utility's contractual obligations  
5 allocable to the area in question; any demonstrated impairment of  
6 service or increase of cost to consumers of the retail public  
7 utility remaining after the decertification; the impact on future  
8 revenues lost from existing customers [~~and expenses of the retail~~  
9 ~~public utility~~]; necessary and reasonable legal expenses and  
10 professional fees; [~~factors relevant to maintaining the current~~  
11 ~~financial integrity of the retail public utility,~~] and other  
12 relevant factors. The commission shall adopt rules governing the  
13 evaluation of these factors.

14 (g-1) If the retail public utilities cannot agree on an  
15 independent appraiser within 10 calendar days after the date on  
16 which the retail public utility notifies the commission of its  
17 intent to provide service to the decertified area, each retail  
18 public utility shall engage its own appraiser at its own expense,  
19 and each appraisal shall be submitted to the commission within 60  
20 calendar days. After receiving the appraisals, the commission  
21 shall appoint a third appraiser who shall make a determination of  
22 the compensation within 30 days. The determination may not be less  
23 than the lower appraisal or more than the higher appraisal. Each  
24 retail public utility shall pay half the cost of the third  
25 appraisal.

26 SECTION 10. Section 13.255, Water Code, is amended by  
27 amending Subsection (g) and by adding Subsection (g-1) to read as

1 follows:

2 (g) For the purpose of implementing this section, the value  
3 of real property owned and utilized by the retail public utility for  
4 its facilities shall be determined according to the standards set  
5 forth in Chapter 21, Property Code, governing actions in eminent  
6 domain; the value of personal property shall be determined  
7 according to the factors in this subsection. The factors ensuring  
8 that the compensation to a retail public utility [~~for the taking,~~  
9 ~~damaging, and/or loss of personal property, including the retail~~  
10 ~~public utility's business,~~] is just and adequate, shall, at a  
11 minimum, include: impact on the existing indebtedness of the  
12 retail public utility and its ability to repay that debt, the value  
13 of the service facilities of the retail public utility located  
14 within the area in question, the amount of any expenditures for  
15 planning, design, or construction of service facilities outside the  
16 incorporated or annexed area that are allocable to service to the  
17 area in question, the amount of the retail public utility's  
18 contractual obligations allocable to the area in question, any  
19 demonstrated impairment of service or increase of cost to consumers  
20 of the retail public utility remaining after the single  
21 certification, the impact on future revenues lost from existing  
22 customers [~~and expenses of the retail public utility~~], necessary  
23 and reasonable legal expenses and professional fees, factors  
24 relevant to maintaining the current financial integrity of the  
25 retail public utility, and other relevant factors.

26 (g-1) The commission shall adopt rules governing the  
27 evaluation of the factors to be considered in determining the



1 monetary compensation under Subsection (g). The commission by rule  
2 shall adopt procedures to ensure that the total compensation to be  
3 paid to a retail public utility under Subsection (g) is determined  
4 not later than the 90th calendar day after the date on which the  
5 commission determines that the municipality's application is  
6 administratively complete.

7 SECTION 11. Subchapter G, Chapter 13, Water Code, is  
8 amended by adding Section 13.2551 to read as follows:

9 Sec. 13.2551. COMPLETION OF DECERTIFICATION. (a) As a  
10 condition to decertification or single certification under Section  
11 13.254 or 13.255, and on request by an affected retail public  
12 utility, the commission may order:

13 (1) the retail public utility seeking to provide  
14 service to a decertified area to serve the entire service area of  
15 the retail public utility that is being decertified; and

16 (2) the transfer of the entire certificate of public  
17 convenience and necessity of a partially decertified retail public  
18 utility to the retail public utility seeking to provide service to  
19 the decertified area.

20 (b) The commission shall order service to the entire area  
21 under Subsection (a) if the commission finds that the decertified  
22 retail public utility will be unable to provide continuous and  
23 adequate service at an affordable cost to the remaining customers.

24 (c) The commission shall require the retail public utility  
25 seeking to provide service to the decertified area to provide  
26 continuous and adequate service to the remaining customers at a  
27 cost comparable to the cost of that service to its other customers

1 and shall establish the terms under which the service must be  
2 provided. The terms may include:

- 3 (1) transferring debt and other contract obligations;  
4 (2) transferring real and personal property;  
5 (3) establishing interim service rates for affected  
6 customers during specified times; and  
7 (4) other provisions necessary for the just and  
8 reasonable allocation of assets and liabilities.

9 (d) The retail public utility seeking decertification shall  
10 not charge the affected customers any transfer fee or other fee to  
11 obtain service other than the retail public utility's usual and  
12 customary rates for monthly service or the interim rates set by the  
13 commission, if applicable.

14 (e) The commission shall not order compensation to the  
15 decertificated retail utility if service to the entire service area  
16 is ordered under this section.

17 SECTION 12. Section 13.257, Water Code, is amended by  
18 amending Subsections (a), (b), and (d) and adding Subsections (r)  
19 and (s) to read as follows:

20 (a) In this section, "utility service provider" means a  
21 retail public utility other than a district subject to Section  
22 49.452 of this code~~[, a water supply or sewer service corporation,~~  
23 ~~or a special utility district organized and operating under Chapter~~  
24 ~~65]~~.

25 (b) If a person proposes to sell or convey [~~unimproved~~] real  
26 property located in a certificated service area of a utility  
27 service provider, the person must give to the purchaser written

1 notice as prescribed by this section. An executory contract for the  
2 purchase and sale of real property that has a performance period of  
3 more than six months is considered a sale of real property under  
4 this section.

5 (d) The notice must be executed by the seller and read as  
6 follows: "The real property, described below, that you are about to  
7 purchase may be [~~is~~] located in a certificated [~~the~~] water or sewer  
8 service area [~~of \_\_\_\_\_~~] , which is [~~the utility~~  
9 ~~service provider~~] authorized by law to provide water or sewer  
10 service to the properties in the certificated area. If your  
11 property is located in a certificated area there [~~. No other retail~~  
12 ~~public utility is authorized to provide water or sewer service to~~  
13 ~~your property. There~~] may be special costs or charges that you will  
14 be required to pay before you can receive water or sewer service.  
15 There may be a period required to construct lines or other  
16 facilities necessary to provide water or sewer service to your  
17 property. You are advised to determine if the property is in a  
18 certificated area and contact the utility service provider to  
19 determine the cost that you will be required to pay and the period,  
20 if any, that is required to provide water or sewer service to your  
21 property.

22 "The undersigned purchaser hereby acknowledges receipt of  
23 the foregoing notice at or before the execution of a binding  
24 contract for the purchase of the real property described in the  
25 notice or at closing of purchase of the real property.

26 \_\_\_\_\_  
27 Date

\_\_\_\_\_  
Signature of Purchaser

"~~[(Note: Correct name of utility service provider is to be placed in the appropriate space.)]~~ Except for notices included as an addendum to or paragraph of a purchase contract, the notice must be executed by the seller and purchaser, as indicated."

(r) A utility service provider shall:

(1) record in the real property records of each county in which the service area or a portion of the service area is located a certified copy of the map of the certificate of public convenience and necessity and of any amendment to the certificate as contained in the commission's records, and a boundary description of the service area by:

(A) a metes and bounds survey certified by a licensed state land surveyor or a registered professional land surveyor;

(B) the Texas State Plane Coordinate System;

(C) verifiable landmarks, including a road, creek, or railroad line; or

(D) if a recorded plat of the area exists, lot and block number; and

(2) submit to the executive director evidence of the recording.

(s) Each county shall accept and file in its real property records a utility service provider's map presented to the county clerk under this section if the map meets filing requirements, does not exceed 11 inches by 17 inches in size, and is accompanied by the

1 appropriate fee. The recording required by this section must be  
2 completed not later than the 31st day after the date a utility  
3 service provider receives a final order from the commission  
4 granting an application for a new certificate or for an amendment to  
5 a certificate that results in a change in the utility service  
6 provider's service area.

7 SECTION 13. The following provisions of the Water Code are  
8 repealed:

- 9 (1) Section 13.254(h); and  
10 (2) Section 13.2541.

11 SECTION 14. A holder of a certificate of public convenience  
12 and necessity on the effective date of this Act must comply with  
13 Section 13.257, Water Code, as amended by this Act, not later than  
14 January 1, 2007.

15 SECTION 15. The changes in law made by this Act apply only  
16 to:

17 (1) an application for a certificate of public  
18 convenience and necessity or for an amendment to a certificate of  
19 public convenience and necessity submitted to the Texas Commission  
20 on Environmental Quality on or after January 1, 2006; and

21 (2) a proceeding to amend or revoke a certificate of  
22 public convenience and necessity initiated on or after January 1,  
23 2006.

24 SECTION 16. The Texas Commission on Environmental Quality  
25 shall promulgate rules implementing the changes in law effected by  
26 this Act by January 1, 2006, or shall report to the governor,  
27 lieutenant governor, and speaker of the house any failure to comply

1 with this deadline.

2 SECTION 17. This Act takes effect September 1, 2005.

H.B. No. 2876

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 2876 was passed by the House on May 12, 2005, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 2876 on May 27, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2876 on May 29, 2005, by a non-record vote.

---

Chief Clerk of the House

H.B. No. 2876

I certify that H.B. No. 2876 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2876 on May 29, 2005, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor