

By: Puente

H.B. No. 2655

A BILL TO BE ENTITLED

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. Sections 13.002(1-a), (5), and (8), Water Code, are amended to read as follows:

(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 as shown on the appraisal roll of the appraisal district established for each county in which the property is located.

(5) "Commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

(8) "Executive director" means the executive director of the commission ~~[Texas Natural Resource Conservation Commission].~~

SECTION 2. Section 13.2451, Water Code, is amended to read as follows:

Sec. 13.2451. EXTENSION BEYOND EXTRATERRITORIAL JURISDICTION. (a) If ~~[Except as provided by Subsection (b), if]~~ a municipality extends its extraterritorial jurisdiction to include an area certificated to a retail public utility, the retail public utility may continue and extend service in its area of public convenience and necessity under the rights granted by its

1 certificate and this chapter.

2 (b) A municipality that seeks to extend a certificate of
3 public convenience and necessity beyond the municipality's
4 extraterritorial jurisdiction must ensure that the municipality
5 complies with Section 13.241 in relation to the area covered by the
6 portion of the certificate that extends beyond the municipality's
7 extraterritorial jurisdiction.

8 (c) The commission, after notice to the municipality and an
9 opportunity for a hearing, may decertify an area outside a
10 municipality's extraterritorial jurisdiction if the municipality
11 does not provide service to the area on or before the fifth
12 anniversary of the date the certificate of public convenience and
13 necessity was granted for the area. This subsection does not apply
14 to a certificate of public convenience and necessity for an area:

15 (1) that was transferred to a municipality on approval
16 of the commission; and

17 (2) in relation to which the municipality has spent
18 public funds.

19 (d) To the extent of a conflict between this section and
20 Section 13.245, Section 13.245 prevails. [The commission may not
21 extend a municipality's certificate of public convenience and
22 necessity beyond its extraterritorial jurisdiction without the
23 written consent of the landowner who owns the property in which the
24 certificate is to be extended. The portion of any certificate of
25 public convenience and necessity that extends beyond the
26 extraterritorial jurisdiction of the municipality without the
27 consent of the landowner is void.]

1 SECTION 3. Section 13.246(a-1), Water Code, is amended to
2 read as follows:

3 (a-1) Except as otherwise provided by this subsection, in
4 addition to the notice required by Subsection (a), the commission
5 shall require notice to be mailed to each owner of a tract of land
6 that is at least 25 [~~50~~] acres and is wholly or partially included
7 in the area proposed to be certified. Notice required under this
8 subsection must be mailed by first class mail to the owner of the
9 tract according to the most current tax appraisal rolls of the
10 applicable central appraisal district at the time the commission
11 received the application for the certificate or amendment. Good
12 faith efforts to comply with the requirements of this subsection
13 shall be considered adequate notice to landowners. Notice under
14 this subsection is not required for a matter filed with the
15 commission under:

16 (1) Section 13.248 or 13.255; or

17 (2) Chapter 65.

18 SECTION 4. The changes in law made by this Act apply only
19 to:

20 (1) an application for a certificate of public
21 convenience and necessity or for an amendment to a certificate of
22 public convenience and necessity submitted to the Texas Commission
23 on Environmental Quality on or after the effective date of this Act;

24 (2) a proceeding to amend or revoke a certificate of
25 public convenience and necessity initiated on or after the
26 effective date of this Act;

27 (3) a certificate of public convenience and necessity

1 issued to a municipality, regardless of the date the certificate
2 was issued;

3 (4) an application by a municipality or by a utility
4 owned by a municipality for a certificate of public convenience and
5 necessity or for an amendment to a certificate, regardless of the
6 date the application was filed; and

7 (5) a proceeding to amend or revoke a certificate of
8 public convenience and necessity held by a municipality or by a
9 utility owned by a municipality, regardless of the date the
10 proceeding was initiated.

11 SECTION 5. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2007.