

Amend CSSB 573 (house committee report) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 5-7) and substitute "Section 13.254, Water Code, is amended by amending Subsections (a), (a-1), (a-2), and (a-3) and adding Subsections (a-5), (a-6), and (h) to read as follows:".

(2) In SECTION 1 of the bill, in amended Section 13.254, Water Code (page 2, between lines 11 and 12), insert the following:

(a-1) As an alternative to decertification under Subsection (a), the owner of a tract of land that is at least 50 acres and that is not in a platted subdivision actually receiving water or sewer service may petition the commission under this subsection for expedited release of the area from a certificate of public convenience and necessity so that the area may receive service from another retail public utility. The fact that a certificate holder is a borrower under a federal loan program is not a bar to a request under this subsection for the release of the petitioner's land and the receipt of services from an alternative provider. On the day the petitioner submits the petition to the commission, the [The] petitioner shall send ~~deliver~~, via certified mail, a copy of the petition to the certificate holder, who may submit information to the commission to controvert information submitted by the petitioner. The petitioner must demonstrate that:

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

(A) the area for which service is sought;

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

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

(D) the approximate cost for the alternative provider to provide the service at the same level and manner that is requested from the certificate holder;

(E) the flow and pressure requirements and specific infrastructure needs, including line size and system capacity for the required level of fire protection requested; and

(F) [~~(D)~~] any additional information requested

by the certificate holder that is reasonably related to determination of the capacity or cost for providing the service;

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

(3) the certificate holder:

(A) has refused to provide the service;

(B) is not capable of providing the service on a continuous and adequate basis within the timeframe, at the level, at the approximate cost that the alternative provider is capable of providing for a comparable level of service, or in the manner reasonably needed or requested by current and projected service demands in the area; or

(C) conditions the provision of service on the payment of costs not properly allocable directly to the petitioner's service request, as determined by the commission; and

(4) the alternate retail public utility from which the petitioner will be requesting service possesses the financial, managerial, and technical capability to provide ~~[is capable of providing]~~ continuous and adequate service within the timeframe, at the level, at the cost, and in the manner reasonably needed or requested by current and projected service demands in the area.

(3) In SECTION 1 of the bill, in amended Section 13.254, Water Code (page 2, between lines 22 and 23), insert the following:

(a-3) Within 60 ~~[90]~~ calendar days from the date the commission determines the petition filed pursuant to Subsection (a-1) to be administratively complete, the commission shall grant the petition unless the commission makes an express finding that the petitioner failed to satisfy the elements required in Subsection (a-1) and supports its finding with separate findings and conclusions for each element based solely on the information provided by the petitioner and the certificate holder. The commission may grant or deny a petition subject to terms and conditions specifically related to the service request of the petitioner and all relevant information submitted by the petitioner and the certificate holder. In addition, the commission may require an award of compensation as otherwise provided by this

section. If the certificate holder has never made service available through planning, design, construction of facilities, or contractual obligations to serve the area the petitioner seeks to have released, the commission is not required to find that the proposed alternative provider is capable of providing better service than the certificate holder, but only that the proposed alternative provider is capable of providing the requested service.

(4) In SECTION 1 of the bill, in amended Section 13.254, Water Code (page 3, between lines 13 and 14), insert the following:

(h) A certificate holder that has land removed from its certificated service area in accordance with this section may not be required, after the land is removed, to provide service to the removed land for any reason, including the violation of law or commission rules by a water or sewer system of another person.

(5) Add the following appropriately numbered SECTIONS to the bill and renumber the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 13.245, Water Code, is amended by amending Subsection (b) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(b) Except as provided by Subsections ~~[Subsection]~~ (c), (c-1), and (c-2), the commission may not grant to a retail public utility a certificate of public convenience and necessity for a service area within the boundaries or extraterritorial jurisdiction of a municipality without the consent of the municipality. The municipality may not unreasonably withhold the consent. As a condition of the consent, a municipality may require that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for facilities.

(c-1) If a municipality has not consented under Subsection (b) before the 180th day after the date a landowner or a retail public utility submits to the municipality a formal request for service according to the municipality's application requirements and standards for facilities on the same or substantially similar terms as provided by the retail public utility's application to the commission, including a capital improvements plan required by Section 13.244(d)(3) or a subdivision plat, the commission may

grant the certificate of public convenience and necessity without the consent of the municipality if:

(1) the commission makes the findings required by Subsection (c);

(2) the municipality has not entered into a binding commitment to serve the area that is the subject of the retail public utility's application to the commission before the 180th day after the date the formal request was made; and

(3) the landowner or retail public utility that submitted the formal request has not unreasonably refused to:

(A) comply with the municipality's service extension and development process; or

(B) enter into a contract for water or sewer services with the municipality.

(c-2) If a municipality refuses to provide service in the proposed service area, as evidenced by a formal vote of the municipality's governing body or an official notification from the municipality, the commission is not required to make the findings otherwise required by this section and may grant the certificate of public convenience and necessity to the retail public utility at any time after the date of the formal vote or receipt of the official notification.

(c-3) The commission must include as a condition of a certificate of public convenience and necessity granted under Subsection (c-1) or (c-2) that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for water and sewer facilities.

SECTION _____. Sections 13.2451(a) and (b), Water Code, are amended to read as follows:

(a) Except as provided by Subsection (b), if ~~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 certificate and this chapter.

(b) The commission may not extend a municipality's certificate of public convenience and necessity beyond its

~~extraterritorial jurisdiction if an owner of land that is located wholly or partly outside the extraterritorial jurisdiction elects to exclude some or all of the landowner's property within a proposed service area in accordance with Section 13.246(h). This subsection does not apply to a transfer of a certificate as approved by the commission. [A municipality that seeks to extend a certificate of public convenience and necessity beyond the municipality's extraterritorial jurisdiction must ensure that the municipality complies with Section 13.241 in relation to the area covered by the portion of the certificate that extends beyond the municipality's extraterritorial jurisdiction.]~~

SECTION _____. Section 13.246(h), Water Code, is amended to read as follows:

(h) Except as provided by Subsection (i), a landowner who owns a tract of land that is at least 25 acres and that is wholly or partially located within the proposed service area may elect to exclude some or all of the landowner's property from the proposed service area by providing written notice to the commission before the 30th day after the date the landowner receives notice of a new application for a certificate of public convenience and necessity or for an amendment to an existing certificate of public convenience and necessity. The landowner's election is effective without a further hearing or other process by the commission. If a landowner makes an election under this subsection, the application shall be modified so that the electing landowner's property is not included in the proposed service area. An applicant for a certificate of public convenience and necessity that has land removed from its proposed certificated service area because of a landowner's election under this subsection may not be required to provide service to the removed land for any reason, including the violation of law or commission rules by the water or sewer system of another person.

SECTION _____. The changes made by this Act to Sections 13.245, 13.2451, 13.246, and 13.254, Water Code, apply only to:

(1) a retail public utility's application for a certificate of public convenience and necessity for a service area in the extraterritorial jurisdiction of a municipality that is made

on or after the effective date of this Act;

(2) an extension of a municipality's certificate of public convenience and necessity for a service area in the extraterritorial jurisdiction of the municipality on or after the effective date of this Act; and

(3) a petition to release an area from a certificate of public convenience and necessity that is made on or after the effective date of this Act.