

By: Munoz, Jr.

H.B. No. 2888

A BILL TO BE ENTITLED

AN ACT

1
2 relating to expedited release from a certificate of public
3 convenience and necessity for water and sewer service for certain
4 landowners.

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

6 SECTION 1. Section 13.254, Water Code, is amended by
7 amending Subsections (a) and (a-2) and adding Subsection (a-5) to
8 read as follows:

9 (a) The commission at any time after notice and hearing may,
10 on its own motion or on receipt of a petition described by this
11 section [~~Subsection (a-1)~~], revoke or amend any certificate of
12 public convenience and necessity with the written consent of the
13 certificate holder or if it finds that:

14 (1) the certificate holder has never provided, is no
15 longer providing, is incapable of providing, or has failed to
16 provide continuous and adequate service in the area, or part of the
17 area, covered by the certificate;

18 (2) in an affected county as defined in Section
19 16.341, the cost of providing service by the certificate holder is
20 so prohibitively expensive as to constitute denial of service,
21 provided that, for commercial developments or for residential
22 developments started after September 1, 1997, in an affected county
23 as defined in Section 16.341, the fact that the cost of obtaining
24 service from the currently certificated retail public utility makes

1 the development economically unfeasible does not render such cost
2 prohibitively expensive in the absence of other relevant factors;

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

7 (4) the certificate holder has failed to file a cease
8 and desist action pursuant to Section 13.252 within 180 days of the
9 date that it became aware that another retail public utility was
10 providing service within its service area, unless the certificate
11 holder demonstrates good cause for its failure to file such action
12 within the 180 days.

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

17 (1) within the boundaries of any municipality or the
18 extraterritorial jurisdiction of a municipality with a population
19 of more than 500,000 and the municipality or retail public utility
20 owned by the municipality is the holder of the certificate; or

21 (2) in a platted subdivision actually receiving water
22 or sewer service from a certificate holder other than a rural water
23 supply corporation that owes a debt to the federal government under
24 7 U.S.C. Section 1926.

25 (a-5) Notwithstanding Subsection (a-1), a landowner may
26 petition for expedited release under that subsection and is
27 entitled to that release if:

1 (1) the landowner's property is located in the
2 boundaries of a municipality;

3 (2) the certificate holder serving the landowner's
4 property is a rural water supply corporation that owes a debt to the
5 federal government under 7 U.S.C. Section 1926; and

6 (3) in addition to the requirements of Subsection
7 (a-1), the landowner demonstrates in the landowner's petition that
8 the rural water supply corporation has refused to provide or is not
9 capable of providing service in the same manner that the
10 municipality would be required to provide if the municipality held
11 the certificate for the landowner's property.

12 SECTION 2. This Act takes effect September 1, 2011.