

1-1 By: Cook, Bonnen of Brazoria, Price
1-2 (Senate Sponsor - Nichols) H.B. No. 1600
1-3 (In the Senate - Received from the House March 25, 2013;
1-4 March 26, 2013, read first time and referred to Committee on
1-5 Business and Commerce; April 15, 2013, reported adversely, with
1-6 favorable Committee Substitute by the following vote: Yeas 9,
1-7 Nays 0; April 15, 2013, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	Carona	X		
1-11	Taylor	X		
1-12	Eltife	X		
1-13	Estes	X		
1-14	Hancock	X		
1-15	Lucio	X		
1-16	Van de Putte	X		
1-17	Watson	X		
1-18	Whitmire	X		

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 1600 By: Eltife

1-20 A BILL TO BE ENTITLED
1-21 AN ACT

1-22 relating to the continuation and functions of the Public Utility
1-23 Commission of Texas, to the transfer of certain functions from the
1-24 Texas Commission on Environmental Quality to the Public Utility
1-25 Commission of Texas, to the rates for water service, and to the
1-26 functions of the Office of Public Utility Counsel; authorizing a
1-27 fee.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 ARTICLE 1. GENERAL PROVISIONS RELATING TO THE PUBLIC UTILITY
1-30 COMMISSION OF TEXAS

1-31 SECTION 1.01. Section 12.005, Utilities Code, is amended to
1-32 read as follows:

1-33 Sec. 12.005. APPLICATION OF SUNSET ACT. The Public Utility
1-34 Commission of Texas is subject to Chapter 325, Government Code
1-35 (Texas Sunset Act). Unless continued in existence as provided by
1-36 that chapter or by Chapter 39, the commission is abolished and this
1-37 title expires September 1, 2023 [~~2013~~].

1-38 SECTION 1.02. Section 12.155, Utilities Code, is amended by
1-39 adding Subsection (d) to read as follows:

1-40 (d) A commissioner may not be employed by an independent
1-41 organization certified under Section 39.151. The prohibition under
1-42 this subsection applies until the second anniversary of the date
1-43 the commissioner ceases to serve as a commissioner.

1-44 SECTION 1.03. Chapter 15, Utilities Code, is amended by
1-45 adding Subchapter D to read as follows:

1-46 SUBCHAPTER D. CEASE AND DESIST ORDERS

1-47 Sec. 15.101. APPLICATION OF SUBCHAPTER. This subchapter
1-48 applies only to a person to whom Subtitle B applies.

1-49 Sec. 15.102. RULES. The commission shall adopt rules to
1-50 implement this subchapter.

1-51 Sec. 15.103. PROCEEDINGS UNDER OTHER LAW. The commission
1-52 may proceed solely under this subchapter or under this subchapter
1-53 in conjunction with other applicable law.

1-54 Sec. 15.104. AUTHORITY TO ISSUE ORDER. (a) The
1-55 commission on its own motion may issue a cease and desist order:

1-56 (1) after providing notice and an opportunity for a
1-57 hearing if practicable or without notice or opportunity for a
1-58 hearing; and

1-59 (2) if the commission determines that the conduct of a
1-60 person:

2-1 (A) poses a threat to continuous and adequate
2-2 electric service;
2-3 (B) is hazardous;
2-4 (C) creates an immediate danger to the public
2-5 safety; or
2-6 (D) is causing or can be reasonably expected to
2-7 cause an immediate injury to a customer of electric services and
2-8 that the injury is incapable of being repaired or rectified by
2-9 monetary compensation.

2-10 (b) The commission by order or rule may delegate to the
2-11 executive director the authority to issue cease and desist orders
2-12 under this subchapter.

2-13 Sec. 15.105. NOTICE. (a) Notice of a proposed order must
2-14 be given not later than the 10th day before the date set for a
2-15 hearing if the commission requires notice and hearing before
2-16 issuing the order.

2-17 (b) On issuance of an order under Section 15.104 with or
2-18 without a hearing, the commission shall serve on the person
2-19 affected by the order an order that:

2-20 (1) contains a statement of the charges; and
2-21 (2) requires the person immediately to cease and
2-22 desist from the acts, methods, or practices stated in the order.

2-23 (c) The commission shall serve the order by registered or
2-24 certified mail, return receipt requested, to the person's last
2-25 known address.

2-26 Sec. 15.106. HEARING. (a) Chapter 2001, Government Code,
2-27 does not apply to the issuance of a cease and desist order under
2-28 this subchapter without a hearing. A hearing conducted before or
2-29 after issuance of an order under this subchapter is a contested case
2-30 under Chapter 2001, Government Code.

2-31 (b) If the commission issues an order under this subchapter
2-32 without a hearing, the person affected by the order may request a
2-33 hearing to affirm, modify, or set aside the order. A request must
2-34 be submitted not later than the 30th day after the date the person
2-35 receives the order. The commission shall set the hearing for a date
2-36 that is:

2-37 (1) not later than the 10th day after the date the
2-38 commission receives a request for a hearing; or
2-39 (2) agreed to by the person and the commission.

2-40 (c) At or following the hearing, the commission shall wholly
2-41 or partly affirm, modify, or set aside the order. If the person
2-42 affected by an order does not request a hearing in the manner
2-43 provided by Subsection (b) and the commission does not hold a
2-44 hearing on the order, the order is affirmed without further action
2-45 by the commission.

2-46 (d) The commission may hold a hearing under this subchapter
2-47 or may authorize the State Office of Administrative Hearings to
2-48 hold the hearing.

2-49 Sec. 15.107. EFFECT OF ORDER PENDING HEARING. Pending a
2-50 hearing under this subchapter, an order continues in effect unless
2-51 the order is stayed by the commission.

2-52 SECTION 1.04. Section 39.151, Utilities Code, is amended by
2-53 amending Subsections (d-1) and (e) and adding Subsections (d-2),
2-54 (d-3), (d-4), and (e-1) to read as follows:

2-55 (d-1) The commission shall require an independent
2-56 organization certified by the commission under this section to
2-57 submit to the commission the organization's entire proposed annual
2-58 budget. The commission shall review the proposed budgets either
2-59 annually or biennially and may approve, disapprove, or modify any
2-60 item included in a proposed budget. The commission by rule shall
2-61 establish the type of information or documents needed to
2-62 effectively evaluate the proposed budget and reasonable dates for
2-63 the submission of that information or those documents. The
2-64 commission shall establish a procedure to provide public notice of
2-65 and public participation in the budget review process.

2-66 (d-2) Except as otherwise agreed to by the commission and an
2-67 independent organization certified by the commission under this
2-68 section, the organization must submit to the commission for review
2-69 and approval proposals for obtaining debt financing or for

3-1 refinancing existing debt. The commission may approve, disapprove,
 3-2 or modify a proposal.

3-3 (d-3) An independent organization certified by the
 3-4 commission under this section shall develop proposed performance
 3-5 measures to track the organization's operations. The independent
 3-6 organization must submit the proposed performance measures to the
 3-7 commission for review and approval. The commission shall review
 3-8 the organization's performance as part of the budget review process
 3-9 under Subsection (d-1). The commission shall prepare a report at
 3-10 the time the commission approves the organization's budget
 3-11 detailing the organization's performance and submit the report to
 3-12 the lieutenant governor, the speaker of the house of
 3-13 representatives, and each house and senate standing committee that
 3-14 has jurisdiction over electric utility issues.

3-15 (d-4) The commission may:

3-16 (1) require an independent organization to provide
 3-17 reports and information relating to the independent organization's
 3-18 performance of the functions prescribed by this section and
 3-19 relating to the organization's revenues, expenses, and other
 3-20 financial matters;

3-21 (2) prescribe a system of accounts for an independent
 3-22 organization;

3-23 (3) conduct audits of an independent organization's
 3-24 performance of the functions prescribed by this section or relating
 3-25 to its revenues, expenses, and other financial matters and may
 3-26 require an independent organization to conduct such an audit;

3-27 (4) inspect an independent organization's facilities,
 3-28 records, and accounts during reasonable hours and after reasonable
 3-29 notice to the independent organization;

3-30 (5) assess administrative penalties against an
 3-31 independent organization that violates this title or a rule or
 3-32 order adopted by the commission and, at the request of the
 3-33 commission, the attorney general may apply for a court order to
 3-34 require an independent organization to comply with commission rules
 3-35 and orders in the manner provided by Chapter 15; and

3-36 (6) resolve disputes between an affected person and an
 3-37 independent organization and adopt procedures for the efficient
 3-38 resolution of such disputes.

3-39 (e) After approving the budget of an independent
 3-40 organization under Subsection (d-1), the [The] commission shall
 3-41 [may] authorize the [an independent] organization [that is
 3-42 certified under this section] to charge [a reasonable and
 3-43 competitively neutral rate] to wholesale buyers and sellers a
 3-44 system administration fee, within a range determined by the
 3-45 commission, that is reasonable and competitively neutral to fund
 3-46 [to cover] the independent organization's approved budget [costs].
 3-47 The commission shall investigate the organization's cost
 3-48 efficiencies, salaries and benefits, and use of debt financing and
 3-49 may require the organization to provide any information needed to
 3-50 effectively evaluate [the organization's budget and] the
 3-51 reasonableness and neutrality of the fee [a rate or proposed rate]
 3-52 or to evaluate the effectiveness or efficiency of the organization.
 3-53 The commission shall work with the organization to establish the
 3-54 detail of information, both current and historical, and the time
 3-55 frames the commission needs to effectively evaluate the fee. The
 3-56 commission shall require the organization to closely match actual
 3-57 revenues generated by the fee and other sources of revenue with
 3-58 revenue necessary to fund the budget, taking into account the
 3-59 effect of a fee change on market participants and consumers, to
 3-60 ensure that the budget year does not end with surplus or
 3-61 insufficient funds. The commission shall require the organization
 3-62 to submit to the commission, on a schedule determined by the
 3-63 commission, reports that compare actual expenditures with budgeted
 3-64 expenditures [a rate or a rate request].

3-65 (e-1) The review and approval of a proposed budget under
 3-66 Subsection (d-1) or a proceeding to authorize and set the range for
 3-67 the amount of a fee under Subsection (e) is not a contested case for
 3-68 purposes of Chapter 2001, Government Code.

3-69 SECTION 1.05. Section 39.1515(c), Utilities Code, is

4-1 amended to read as follows:

4-2 (c) The independent organization shall use money from the
 4-3 fee [rate] authorized by Section 39.151(e) to pay for the market
 4-4 monitor's activities.

4-5 SECTION 1.06. Section 39.903(d), Utilities Code, is amended
 4-6 to read as follows:

4-7 (d) The commission shall annually review and approve system
 4-8 benefit fund accounts, projected revenue requirements, and
 4-9 proposed nonbypassable fees. [~~The commission shall report to the
 4-10 electric utility restructuring legislative oversight committee if
 4-11 the system benefit fund fee is insufficient to fund the purposes set
 4-12 forth in Subsection (e) to the extent required by this section.~~]

4-13 SECTION 1.07. Subchapter C, Chapter 52, Utilities Code, is
 4-14 amended by adding Section 52.1035 to read as follows:

4-15 Sec. 52.1035. RENEWAL OF CERTAIN CERTIFICATES. (a) The
 4-16 commission by rule shall require each holder of a certificate of
 4-17 operating authority and holder of a service provider certificate of
 4-18 operating authority to file with the commission on a one-time or
 4-19 regular basis:

- 4-20 (1) the certificate holder's name;
- 4-21 (2) the certificate holder's address; and
- 4-22 (3) the most recent version of each annual report the
 4-23 commission requires the certificate holder to file under this
 4-24 subtitle.

4-25 (b) The rules must:

- 4-26 (1) require the commission to automatically allow a
 4-27 certificate holder an extension of a filing deadline for the number
 4-28 of days prescribed by the rule, as applicable; and
- 4-29 (2) state that the certificate of a holder will not be
 4-30 valid after the last day of the automatic extension period
 4-31 described by Subdivision (1) if the certificate holder does not
 4-32 file information required by the commission under this section by
 4-33 the end of the automatic extension period.

4-34 (c) A certificate holder whose certificate is no longer
 4-35 valid may obtain a new certificate only by complying with the
 4-36 requirements prescribed for obtaining an original certificate.

4-37 SECTION 1.08. Section 64.003, Utilities Code, is repealed.

4-38 SECTION 1.09. The Public Utility Commission of Texas shall
 4-39 adopt rules to implement the filing process required by Section
 4-40 52.1035, Utilities Code, as added by this article, as soon as
 4-41 practicable. The rules must specify whether the commission will
 4-42 require that a holder of a certificate of operating authority or
 4-43 holder of a service provider certificate of operating authority
 4-44 file the information required by Section 52.1035, Utilities Code,
 4-45 as added by this article, once or on a regular basis. Regardless of
 4-46 the frequency of filing required, each certificate holder shall
 4-47 file the information required by Section 52.1035, Utilities Code,
 4-48 as added by this article, not later than January 1, 2015. If the
 4-49 commission requires regular filings, the rules must specify the
 4-50 timing of the subsequent filings.

4-51 ARTICLE 2. WATER AND SEWER UTILITIES AND OTHER RELATED DUTIES OF
 4-52 THE PUBLIC UTILITY COMMISSION OF TEXAS; RATES FOR WATER SERVICE

4-53 SECTION 2.01. Section 5.013(a), Water Code, is amended to
 4-54 read as follows:

4-55 (a) The commission has general jurisdiction over:

- 4-56 (1) water and water rights including the issuance of
 4-57 water rights permits, water rights adjudication, cancellation of
 4-58 water rights, and enforcement of water rights;
- 4-59 (2) continuing supervision over districts created
 4-60 under Article III, Sections 52(b)(1) and (2), and Article XVI,
 4-61 Section 59, of the Texas Constitution;
- 4-62 (3) the state's water quality program including
 4-63 issuance of permits, enforcement of water quality rules, standards,
 4-64 orders, and permits, and water quality planning;
- 4-65 (4) the determination of the feasibility of certain
 4-66 federal projects;
- 4-67 (5) the adoption and enforcement of rules and
 4-68 performance of other acts relating to the safe construction,
 4-69 maintenance, and removal of dams;

5-1 (6) conduct of the state's hazardous spill prevention
5-2 and control program;

5-3 (7) the administration of the state's program relating
5-4 to inactive hazardous substance, pollutant, and contaminant
5-5 disposal facilities;

5-6 (8) the administration of a portion of the state's
5-7 injection well program;

5-8 (9) the administration of the state's programs
5-9 involving underground water and water wells and drilled and mined
5-10 shafts;

5-11 (10) the state's responsibilities relating to regional
5-12 waste disposal;

5-13 (11) the responsibilities assigned to the commission
5-14 by Chapters 361, 363, 382, and 401, Health and Safety Code; and

5-15 (12) ~~[administration of the state's water rate program
5-16 under Chapter 13 of this code; and~~

5-17 ~~[-(13)-]~~ any other areas assigned to the commission by
5-18 this code and other laws of this state.

5-19 SECTION 2.02. Section 5.311(a), Water Code, is amended to
5-20 read as follows:

5-21 (a) The commission may delegate to an administrative law
5-22 judge of the State Office of Administrative Hearings the
5-23 responsibility to hear any matter before the commission ~~[and to
5-24 issue interlocutory orders related to interim rates under Chapter
5-25 13].~~

5-26 SECTION 2.03. Section 5.507, Water Code, is amended to read
5-27 as follows:

5-28 Sec. 5.507. EMERGENCY ORDER FOR OPERATION OF UTILITY THAT
5-29 DISCONTINUES OPERATION OR IS REFERRED FOR APPOINTMENT OF RECEIVER.
5-30 The commission or the Public Utility Commission of Texas may issue
5-31 an emergency order appointing a willing person to temporarily
5-32 manage and operate a utility under Section 13.4132. Notice of the
5-33 action is adequate if the notice is mailed or hand delivered to the
5-34 last known address of the utility's headquarters.

5-35 SECTION 2.04. Sections 5.508(a) and (c), Water Code, are
5-36 amended to read as follows:

5-37 (a) Notwithstanding the requirements of Subchapter F,
5-38 Chapter 13 [Section 13.187], the Public Utility Commission of Texas
5-39 [commission] may authorize an emergency rate increase for a utility
5-40 for which a person has been appointed under Section 5.507 or 13.4132
5-41 [13.412] or for which a receiver has been appointed under Section
5-42 13.412 [13.4132] if the increase is necessary to ensure the
5-43 provision of continuous and adequate services to the utility's
5-44 customers. The Public Utility Commission of Texas shall consult
5-45 with the commission as needed to carry out this section.

5-46 (c) Notwithstanding Section 5.505, an order may be issued
5-47 under this section for a term not to exceed 15 months. The Public
5-48 Utility Commission of Texas [commission] shall schedule a hearing
5-49 to establish a final rate within 15 months after the date on which
5-50 an emergency rate increase takes effect. The additional revenues
5-51 collected under an emergency rate increase are subject to refund if
5-52 the utility commission finds that the rate increase was larger than
5-53 necessary to ensure continuous and adequate service.

5-54 SECTION 2.05. Section 11.002, Water Code, is amended by
5-55 adding Subdivision (21) to read as follows:

5-56 (21) "Utility commission" means the Public Utility
5-57 Commission of Texas.

5-58 SECTION 2.06. Section 11.041(f), Water Code, is amended to
5-59 read as follows:

5-60 (f) The commission shall hold a hearing on the complaint at
5-61 the time and place stated in the order. It may hear evidence orally
5-62 or by affidavit in support of or against the complaint, and it may
5-63 hear arguments. The utility commission may participate in the
5-64 hearing if necessary to present evidence on the price or rental
5-65 demand for the available water. On completion of the hearing, the
5-66 commission shall render a written decision.

5-67 SECTION 2.07. Section 12.013, Water Code, is amended to
5-68 read as follows:

5-69 Sec. 12.013. RATE-FIXING POWER. (a) The utility

6-1 commission shall fix reasonable rates for the furnishing of raw or
 6-2 treated water for any purpose mentioned in Chapter 11 or 12 of this
 6-3 code.

6-4 (b) In this section, [The term] "political subdivision"
 6-5 [~~when used in this section~~] means incorporated cities, towns or
 6-6 villages, counties, river authorities, water districts, and other
 6-7 special purpose districts.

6-8 (c) The utility commission in reviewing and fixing
 6-9 reasonable rates for furnishing water under this section may use
 6-10 any reasonable basis for fixing rates as may be determined by the
 6-11 utility commission to be appropriate under the circumstances of the
 6-12 case being reviewed; provided, however, the utility commission may
 6-13 not fix a rate which a political subdivision may charge for
 6-14 furnishing water which is less than the amount required to meet the
 6-15 debt service and bond coverage requirements of that political
 6-16 subdivision's outstanding debt.

6-17 (d) The utility commission's jurisdiction under this
 6-18 section relating to incorporated cities, towns, or villages shall
 6-19 be limited to water furnished by such city, town, or village to
 6-20 another political subdivision on a wholesale basis.

6-21 (e) The utility commission may establish interim rates and
 6-22 compel continuing service during the pendency of any rate
 6-23 proceeding.

6-24 (f) The utility commission may order a refund or assess
 6-25 additional charges from the date a petition for rate review is
 6-26 received by the utility commission of the difference between the
 6-27 rate actually charged and the rate fixed by the utility commission,
 6-28 plus interest at the statutory rate.

6-29 [~~(g) No action or proceeding commenced prior to January 1,~~
 6-30 ~~1977, before the Texas Water Rights Commission shall be affected by~~
 6-31 ~~the enactment of this section.~~

6-32 [~~(h) Nothing herein contained shall affect the jurisdiction~~
 6-33 ~~of the Public Utility Commission.]~~

6-34 SECTION 2.08. Section 13.002, Water Code, is amended by
 6-35 amending Subdivisions (2), (18), and (22) and adding Subdivisions
 6-36 (4-a), (4-b), (4-c), and (22-a) to read as follows:

6-37 (2) "Affiliated interest" or "affiliate" means:

6-38 (A) any person or corporation owning or holding
 6-39 directly or indirectly five percent or more of the voting
 6-40 securities of a utility;

6-41 (B) any person or corporation in any chain of
 6-42 successive ownership of five percent or more of the voting
 6-43 securities of a utility;

6-44 (C) any corporation five percent or more of the
 6-45 voting securities of which is owned or controlled directly or
 6-46 indirectly by a utility;

6-47 (D) any corporation five percent or more of the
 6-48 voting securities of which is owned or controlled directly or
 6-49 indirectly by any person or corporation that owns or controls
 6-50 directly or indirectly five percent or more of the voting
 6-51 securities of any utility or by any person or corporation in any
 6-52 chain of successive ownership of five percent of those utility
 6-53 securities;

6-54 (E) any person who is an officer or director of a
 6-55 utility or of any corporation in any chain of successive ownership
 6-56 of five percent or more of voting securities of a public utility;

6-57 (F) any person or corporation that the utility
 6-58 commission, after notice and hearing, determines actually
 6-59 exercises any substantial influence or control over the policies
 6-60 and actions of a utility or over which a utility exercises such
 6-61 control or that is under common control with a utility, such control
 6-62 being the possession directly or indirectly of the power to direct
 6-63 or cause the direction of the management and policies of another,
 6-64 whether that power is established through ownership or voting of
 6-65 securities or by any other direct or indirect means; or

6-66 (G) any person or corporation that the utility
 6-67 commission, after notice and hearing, determines is exercising
 6-68 substantial influence over the policies and actions of the utility
 6-69 in conjunction with one or more persons or corporations with which

7-1 they are related by ownership or blood relationship, or by action in
7-2 concert, that together they are affiliated within the meaning of
7-3 this section, even though no one of them alone is so affiliated.

7-4 (4-a) "Class A utility" means a public utility that
7-5 provides retail water or sewer utility service through 10,000 or
7-6 more taps or connections.

7-7 (4-b) "Class B utility" means a public utility that
7-8 provides retail water or sewer utility service through 500 or more
7-9 taps or connections but fewer than 10,000 taps or connections.

7-10 (4-c) "Class C utility" means a public utility that
7-11 provides retail water or sewer utility service through fewer than
7-12 500 taps or connections.

7-13 (18) "Regulatory authority" means, in accordance with
7-14 the context in which it is found, ~~either~~ the commission, the
7-15 utility commission, or the governing body of a municipality.

7-16 (22) "Test year" means the most recent 12-month
7-17 period, beginning on the first day of a calendar or fiscal year
7-18 quarter, for which ~~representative~~ operating data for a retail
7-19 public utility are available. ~~[A utility rate filing must be based~~
7-20 ~~on a test year that ended less than 12 months before the date on~~
7-21 ~~which the utility made the rate filing.]~~

7-22 (22-a) "Utility commission" means the Public Utility
7-23 Commission of Texas.

7-24 SECTION 2.09. Section 13.004, Water Code, is amended to
7-25 read as follows:

7-26 Sec. 13.004. JURISDICTION OF UTILITY COMMISSION OVER
7-27 CERTAIN WATER SUPPLY OR SEWER SERVICE CORPORATIONS. (a)
7-28 Notwithstanding any other law, the utility commission has the same
7-29 jurisdiction over a water supply or sewer service corporation that
7-30 the utility commission has under this chapter over a water and sewer
7-31 utility if the utility commission finds that the water supply or
7-32 sewer service corporation:

7-33 (1) is failing to conduct annual or special meetings
7-34 in compliance with Section 67.007; or

7-35 (2) is operating in a manner that does not comply with
7-36 the requirements for classifications as a nonprofit water supply or
7-37 sewer service corporation prescribed by Sections 13.002(11) and
7-38 (24).

7-39 (b) If the water supply or sewer service corporation
7-40 voluntarily converts to a special utility district operating under
7-41 Chapter 65, the utility commission's jurisdiction provided by this
7-42 section ends.

7-43 SECTION 2.10. Section 13.011, Water Code, is amended to
7-44 read as follows:

7-45 Sec. 13.011. EMPLOYEES. (a) The utility commission and
7-46 the executive director of the commission, subject to approval, as
7-47 applicable, by the utility commission or the commission, shall
7-48 employ any engineering, accounting, and administrative personnel
7-49 necessary to carry out each agency's powers and duties under this
7-50 chapter.

7-51 (b) The executive director and the commission's staff are
7-52 responsible for the gathering of information relating to all
7-53 matters within the jurisdiction of the commission under this
7-54 subchapter. The utility commission and the utility commission's
7-55 staff are responsible for the gathering of information relating to
7-56 all matters within the jurisdiction of the utility commission under
7-57 this subchapter. The duties of the utility commission, the
7-58 executive director, and the staff of the utility commission or
7-59 commission, as appropriate, include:

7-60 (1) accumulation of evidence and other information
7-61 from water and sewer utilities, ~~and~~ from the utility commission
7-62 or commission, as appropriate, and the governing body of the
7-63 respective agency, ~~commission and the board~~ and from other
7-64 sources for the purposes specified by this chapter;

7-65 (2) preparation and presentation of evidence before
7-66 the utility commission or commission, as appropriate, ~~commission~~
7-67 or its appointed examiner in proceedings;

7-68 (3) conducting investigations of water and sewer
7-69 utilities under the jurisdiction of the utility commission or

- 8-1 commission, as appropriate [~~commission~~];
- 8-2 (4) preparation of recommendations that the utility
- 8-3 commission or commission, as appropriate, [~~commission~~] undertake
- 8-4 an investigation of any matter within its jurisdiction;
- 8-5 (5) preparation of recommendations and a report for
- 8-6 inclusion in the annual report of the utility commission or
- 8-7 commission, as appropriate [~~commission~~];
- 8-8 (6) protection and representation of the public
- 8-9 interest[~~, together with the public interest advocate,~~] before the
- 8-10 utility commission or commission, as appropriate [~~commission~~]; and
- 8-11 (7) other activities that are reasonably necessary to
- 8-12 enable the utility commission and the executive director and the
- 8-13 staff of the utility commission or commission, as appropriate, to
- 8-14 perform their duties.

8-15 SECTION 2.11. Section 13.014, Water Code, is amended to
8-16 read as follows:

8-17 Sec. 13.014. ATTORNEY GENERAL TO REPRESENT COMMISSION OR
8-18 UTILITY COMMISSION. The attorney general shall represent the
8-19 commission or the utility commission under this chapter in all
8-20 matters before the state courts and any court of the United States.

8-21 SECTION 2.12. Subchapter B, Chapter 13, Water Code, is
8-22 amended by adding Section 13.017 to read as follows:

8-23 Sec. 13.017. OFFICE OF PUBLIC UTILITY COUNSEL; POWERS AND
8-24 DUTIES. (a) In this section, "counsellor" and "office" have the
8-25 meanings assigned by Section 11.003, Utilities Code.

8-26 (b) The independent Office of Public Utility Counsel
8-27 represents the interests of residential and small commercial
8-28 consumers under this chapter. The office:

8-29 (1) shall assess the effect of utility rate changes
8-30 and other regulatory actions on residential consumers in this
8-31 state;

8-32 (2) shall advocate in the office's own name a position
8-33 determined by the counsellor to be most advantageous to a
8-34 substantial number of residential consumers;

8-35 (3) may appear or intervene, as a party or otherwise,
8-36 as a matter of right on behalf of:

8-37 (A) residential consumers, as a class, in any
8-38 proceeding before the utility commission, including an alternative
8-39 dispute resolution proceeding; and

8-40 (B) small commercial consumers, as a class, in
8-41 any proceeding in which the counsellor determines that small
8-42 commercial consumers are in need of representation, including an
8-43 alternative dispute resolution proceeding;

8-44 (4) may initiate or intervene as a matter of right or
8-45 otherwise appear in a judicial proceeding:

8-46 (A) that involves an action taken by an
8-47 administrative agency in a proceeding, including an alternative
8-48 dispute resolution proceeding, in which the counsellor is
8-49 authorized to appear; or

8-50 (B) in which the counsellor determines that
8-51 residential consumers or small commercial consumers are in need of
8-52 representation;

8-53 (5) is entitled to the same access as a party, other
8-54 than utility commission staff, to records gathered by the utility
8-55 commission under Section 13.133;

8-56 (6) is entitled to discovery of any nonprivileged
8-57 matter that is relevant to the subject matter of a proceeding or
8-58 petition before the utility commission;

8-59 (7) may represent an individual residential or small
8-60 commercial consumer with respect to the consumer's disputed
8-61 complaint concerning retail utility services that is unresolved
8-62 before the utility commission;

8-63 (8) may recommend legislation to the legislature that
8-64 the office determines would positively affect the interests of
8-65 residential and small commercial consumers; and

8-66 (9) may conduct consumer outreach and education
8-67 programs for residential and small commercial consumers.

8-68 (c) This section does not:

8-69 (1) affect a duty the office is required to perform

9-1 under other law; or
 9-2 (2) limit the authority of the utility commission to
 9-3 represent residential or small commercial consumers.

9-4 (d) The appearance of the counsellor in a proceeding does
 9-5 not preclude the appearance of other parties on behalf of
 9-6 residential or small commercial consumers. The counsellor may not
 9-7 be grouped with any other party.

9-8 SECTION 2.13. Section 13.041, Water Code, is amended to
 9-9 read as follows:

9-10 Sec. 13.041. GENERAL POWERS OF UTILITY COMMISSION AND
 9-11 COMMISSION [~~POWER~~]; RULES; HEARINGS. (a) The utility commission
 9-12 may regulate and supervise the business of each [every] water and
 9-13 sewer utility within its jurisdiction, including ratemaking and
 9-14 other economic regulation. The commission may regulate water and
 9-15 sewer utilities within its jurisdiction to ensure safe drinking
 9-16 water and environmental protection. The utility commission and the
 9-17 commission [~~and~~] may do all things, whether specifically designated
 9-18 in this chapter or implied in this chapter, necessary and
 9-19 convenient to the exercise of these powers [~~this power~~] and
 9-20 jurisdiction. The utility commission may consult with the
 9-21 commission as necessary in carrying out its duties related to the
 9-22 regulation of water and sewer utilities.

9-23 (b) The commission and the utility commission shall adopt
 9-24 and enforce rules reasonably required in the exercise of [~~its~~]
 9-25 powers and jurisdiction of each agency, including rules governing
 9-26 practice and procedure before the commission and the utility
 9-27 commission.

9-28 (c) The commission and the utility commission may call and
 9-29 hold hearings, administer oaths, receive evidence at hearings,
 9-30 issue subpoenas to compel the attendance of witnesses and the
 9-31 production of papers and documents, and make findings of fact and
 9-32 decisions with respect to administering this chapter or the rules,
 9-33 orders, or other actions of the commission or the utility
 9-34 commission.

9-35 (c-1) In addition to the powers and duties of the State
 9-36 Office of Administrative Hearings under Title 2, Utilities Code,
 9-37 the utility commission may delegate to an administrative law judge
 9-38 of the State Office of Administrative Hearings the responsibility
 9-39 and authority to issue interlocutory orders related to interim
 9-40 rates under this chapter.

9-41 (d) The utility commission may issue emergency orders, with
 9-42 or without a hearing:

9-43 (1) to compel a water or sewer service provider that
 9-44 has obtained or is required to obtain a certificate of public
 9-45 convenience and necessity to provide continuous and adequate water
 9-46 service, sewer service, or both, if the discontinuance of the
 9-47 service is imminent or has occurred because of the service
 9-48 provider's actions or failure to act; and

9-49 (2) to compel a retail public utility to provide an
 9-50 emergency interconnection with a neighboring retail public utility
 9-51 for the provision of temporary water or sewer service, or both, for
 9-52 not more than 90 days if service discontinuance or serious
 9-53 impairment in service is imminent or has occurred.

9-54 (e) The utility commission may establish reasonable
 9-55 compensation for the temporary service required under Subsection
 9-56 (d)(2) [~~of this section~~] and may allow the retail public utility
 9-57 receiving the service to make a temporary adjustment to its rate
 9-58 structure to ensure proper payment.

9-59 (f) If an order is issued under Subsection (d) without a
 9-60 hearing, the order shall fix a time, as soon after the emergency
 9-61 order is issued as is practicable, and place for a hearing to be
 9-62 held before the utility commission.

9-63 (g) The regulatory assessment required by Section 5.701(n)
 9-64 [~~5.235(n) of this code~~] is not a rate and is not reviewable by the
 9-65 utility commission under Section 13.043 [~~of this code~~]. The
 9-66 commission has the authority to enforce payment and collection of
 9-67 the regulatory assessment.

9-68 SECTION 2.14. Section 13.042, Water Code, is amended to
 9-69 read as follows:

10-1 Sec. 13.042. JURISDICTION OF MUNICIPALITY; ORIGINAL AND
 10-2 APPELLATE JURISDICTION OF UTILITY COMMISSION. (a) Subject to the
 10-3 limitations imposed in this chapter and for the purpose of
 10-4 regulating rates and services so that those rates may be fair, just,
 10-5 and reasonable and the services adequate and efficient, the
 10-6 governing body of each municipality has exclusive original
 10-7 jurisdiction over all water and sewer utility rates, operations,
 10-8 and services provided by a water and sewer utility within its
 10-9 corporate limits.

10-10 (b) The governing body of a municipality by ordinance may
 10-11 elect to have the utility commission exercise exclusive original
 10-12 jurisdiction over the utility rates, operation, and services of
 10-13 utilities, within the incorporated limits of the municipality.

10-14 (c) The governing body of a municipality that surrenders its
 10-15 jurisdiction to the utility commission may reinstate its
 10-16 jurisdiction by ordinance at any time after the second anniversary
 10-17 of the date on which the municipality surrendered its jurisdiction
 10-18 to the utility commission, except that the municipality may not
 10-19 reinstate its jurisdiction during the pendency of a rate proceeding
 10-20 before the utility commission. The municipality may not surrender
 10-21 its jurisdiction again until the second anniversary of the date on
 10-22 which the municipality reinstates jurisdiction.

10-23 (d) The utility commission shall have exclusive appellate
 10-24 jurisdiction to review orders or ordinances of those municipalities
 10-25 as provided in this chapter.

10-26 (e) The utility commission shall have exclusive original
 10-27 jurisdiction over water and sewer utility rates, operations, and
 10-28 services not within the incorporated limits of a municipality
 10-29 exercising exclusive original jurisdiction over those rates,
 10-30 operations, and services as provided in this chapter.

10-31 (f) This subchapter does not give the utility commission
 10-32 power or jurisdiction to regulate or supervise the rates or service
 10-33 of a utility owned and operated by a municipality, directly or
 10-34 through a municipally owned corporation, within its corporate
 10-35 limits or to affect or limit the power, jurisdiction, or duties of a
 10-36 municipality that regulates land and supervises water and sewer
 10-37 utilities within its corporate limits, except as provided by this
 10-38 code.

10-39 SECTION 2.15. Sections 13.043(a), (b), (c), (e), (f), (g),
 10-40 (h), and (j), Water Code, are amended to read as follows:

10-41 (a) Any party to a rate proceeding before the governing body
 10-42 of a municipality may appeal the decision of the governing body to
 10-43 the utility commission. This subsection does not apply to a
 10-44 municipally owned utility. An appeal under this subsection must be
 10-45 initiated within 90 days after the date of notice of the final
 10-46 decision by the governing body, or within 30 days if the appeal
 10-47 relates to the rates of a Class A utility, by filing a petition for
 10-48 review with the utility commission and by serving copies on all
 10-49 parties to the original rate proceeding. The utility commission
 10-50 shall hear the appeal de novo and shall fix in its final order the
 10-51 rates the governing body should have fixed in the action from which
 10-52 the appeal was taken and may include reasonable expenses incurred
 10-53 in the appeal proceedings. The utility commission may establish
 10-54 the effective date for the utility commission's rates at the
 10-55 original effective date as proposed by the utility provider and may
 10-56 order refunds or allow a surcharge to recover lost revenues. The
 10-57 utility commission may consider only the information that was
 10-58 available to the governing body at the time the governing body made
 10-59 its decision and evidence of reasonable expenses incurred in the
 10-60 appeal proceedings.

10-61 (b) Ratepayers of the following entities may appeal the
 10-62 decision of the governing body of the entity affecting their water,
 10-63 drainage, or sewer rates to the utility commission:

10-64 (1) a nonprofit water supply or sewer service
 10-65 corporation created and operating under Chapter 67;

10-66 (2) a utility under the jurisdiction of a municipality
 10-67 inside the corporate limits of the municipality;

10-68 (3) a municipally owned utility, if the ratepayers
 10-69 reside outside the corporate limits of the municipality;

11-1 (4) a district or authority created under Article III,
 11-2 Section 52, or Article XVI, Section 59, of the Texas Constitution
 11-3 that provides water or sewer service to household users; and

11-4 (5) a utility owned by an affected county, if the
 11-5 ratepayer's rates are actually or may be adversely affected. For
 11-6 the purposes of this section ratepayers who reside outside the
 11-7 boundaries of the district or authority shall be considered a
 11-8 separate class from ratepayers who reside inside those boundaries.

11-9 (c) An appeal under Subsection (b) [~~of this section~~] must be
 11-10 initiated by filing a petition for review with the utility
 11-11 commission and the entity providing service within 90 days after
 11-12 the effective day of the rate change or, if appealing under
 11-13 Subdivision (b)(2) or (5) [~~of this section~~], within 90 days after
 11-14 the date on which the governing body of the municipality or affected
 11-15 county makes a final decision. The petition must be signed by the
 11-16 lesser of 10,000 or 10 percent of those ratepayers whose rates have
 11-17 been changed and who are eligible to appeal under Subsection (b) [~~of~~
 11-18 ~~this section~~].

11-19 (e) In an appeal under Subsection (b) [~~of this section~~], the
 11-20 utility commission shall hear the appeal de novo and shall fix in
 11-21 its final order the rates the governing body should have fixed in
 11-22 the action from which the appeal was taken. The utility commission
 11-23 may establish the effective date for the utility commission's rates
 11-24 at the original effective date as proposed by the service provider,
 11-25 may order refunds or allow a surcharge to recover lost revenues, and
 11-26 may allow recovery of reasonable expenses incurred by the retail
 11-27 public utility in the appeal proceedings. The utility commission
 11-28 may consider only the information that was available to the
 11-29 governing body at the time the governing body made its decision and
 11-30 evidence of reasonable expenses incurred by the retail public
 11-31 utility in the appeal proceedings. The rates established by the
 11-32 utility commission in an appeal under Subsection (b) [~~of this~~
 11-33 ~~section~~] remain in effect until the first anniversary of the
 11-34 effective date proposed by the retail public utility for the rates
 11-35 being appealed or until changed by the service provider, whichever
 11-36 date is later, unless the utility commission determines that a
 11-37 financial hardship exists.

11-38 (f) A retail public utility that receives water or sewer
 11-39 service from another retail public utility or political subdivision
 11-40 of the state, including an affected county, may appeal to the
 11-41 utility commission a decision of the provider of water or sewer
 11-42 service affecting the amount paid for water or sewer service. An
 11-43 appeal under this subsection must be initiated within 90 days after
 11-44 the date of notice of the decision is received from the provider of
 11-45 water or sewer service by the filing of a petition by the retail
 11-46 public utility.

11-47 (g) An applicant for service from an affected county or a
 11-48 water supply or sewer service corporation may appeal to the utility
 11-49 commission a decision of the county or water supply or sewer service
 11-50 corporation affecting the amount to be paid to obtain service other
 11-51 than the regular membership or tap fees. In addition to the factors
 11-52 specified under Subsection (j), in an appeal brought under this
 11-53 subsection the utility commission shall determine whether the
 11-54 amount paid by the applicant is consistent with the tariff of the
 11-55 water supply or sewer service corporation and is reasonably related
 11-56 to the cost of installing on-site and off-site facilities to
 11-57 provide service to that applicant. If the utility commission finds
 11-58 the amount charged to be clearly unreasonable, it shall establish
 11-59 the fee to be paid for that applicant. An appeal under this
 11-60 subsection must be initiated within 90 days after the date written
 11-61 notice is provided to the applicant or member of the decision of an
 11-62 affected county or water supply or sewer service corporation
 11-63 relating to the applicant's initial request for that service. A
 11-64 determination made by the utility commission on an appeal under
 11-65 this subsection is binding on all similarly situated applicants for
 11-66 service, and the utility commission may not consider other appeals
 11-67 on the same issue until the applicable provisions of the tariff of
 11-68 the water supply or sewer service corporation are amended.

11-69 (h) The utility commission may, on a motion by the utility

12-1 commission [~~executive director~~] or by the appellant under
 12-2 Subsection (a), (b), or (f) [~~of this section~~], establish interim
 12-3 rates to be in effect until a final decision is made.

12-4 (j) In an appeal under this section, the utility commission
 12-5 shall ensure that every rate made, demanded, or received by any
 12-6 retail public utility or by any two or more retail public utilities
 12-7 jointly shall be just and reasonable. Rates shall not be
 12-8 unreasonably preferential, prejudicial, or discriminatory but
 12-9 shall be sufficient, equitable, and consistent in application to
 12-10 each class of customers. The utility commission shall use a
 12-11 methodology that preserves the financial integrity of the retail
 12-12 public utility. For agreements between municipalities the utility
 12-13 commission shall consider the terms of any wholesale water or sewer
 12-14 service agreement in an appellate rate proceeding.

12-15 SECTION 2.16. Section 13.044(b), Water Code, is amended to
 12-16 read as follows:

12-17 (b) Notwithstanding the provisions of any resolution,
 12-18 ordinance, or agreement, a district may appeal the rates imposed by
 12-19 the municipality by filing a petition with the utility commission.
 12-20 The utility commission shall hear the appeal *de novo* and the
 12-21 municipality shall have the burden of proof to establish that the
 12-22 rates are just and reasonable. The utility commission shall fix the
 12-23 rates to be charged by the municipality and the municipality may not
 12-24 increase such rates without the approval of the utility commission.

12-25 SECTION 2.17. Section 13.046, Water Code, is amended to
 12-26 read as follows:

12-27 Sec. 13.046. TEMPORARY RATES FOR SERVICES PROVIDED FOR
 12-28 NONFUNCTIONING SYSTEM; SANCTIONS FOR NONCOMPLIANCE. (a) The
 12-29 utility commission by rule shall establish a procedure that allows
 12-30 a retail public utility that takes over the provision of services
 12-31 for a nonfunctioning retail water or sewer utility service provider
 12-32 to charge a reasonable rate for the services provided to the
 12-33 customers of the nonfunctioning system and to bill the customers
 12-34 for the services at that rate immediately to recover service costs.

12-35 (b) The rules must provide a streamlined process that the
 12-36 retail public utility that takes over the nonfunctioning system may
 12-37 use to apply to the utility commission for a ruling on the
 12-38 reasonableness of the rates the utility is charging under
 12-39 Subsection (a). The process must allow for adequate consideration
 12-40 of costs for interconnection or other costs incurred in making
 12-41 services available and of the costs that may necessarily be
 12-42 incurred to bring the nonfunctioning system into compliance with
 12-43 utility commission and commission rules.

12-44 (c) The utility commission shall provide a reasonable
 12-45 period for the retail public utility that takes over the
 12-46 nonfunctioning system to bring the nonfunctioning system into
 12-47 compliance with utility commission and commission rules during
 12-48 which the utility commission or the commission may not impose a
 12-49 penalty for any deficiency in the system that is present at the time
 12-50 the utility takes over the nonfunctioning system. The utility
 12-51 commission must consult with the utility before determining the
 12-52 period and may grant an extension of the period for good cause.

12-53 SECTION 2.18. Section 13.081, Water Code, is amended to
 12-54 read as follows:

12-55 Sec. 13.081. FRANCHISES. This chapter may not be construed
 12-56 as in any way limiting the rights and powers of a municipality to
 12-57 grant or refuse franchises to use the streets and alleys within its
 12-58 limits and to make the statutory charges for their use, but no
 12-59 provision of any franchise agreement may limit or interfere with
 12-60 any power conferred on the utility commission by this chapter. If a
 12-61 municipality performs regulatory functions under this chapter, it
 12-62 may make such other charges as may be provided in the applicable
 12-63 franchise agreement, together with any other charges permitted by
 12-64 this chapter.

12-65 SECTION 2.19. Section 13.082, Water Code, is amended to
 12-66 read as follows:

12-67 Sec. 13.082. LOCAL UTILITY SERVICE; EXEMPT AND NONEXEMPT
 12-68 AREAS. (a) Notwithstanding any other provision of this section,
 12-69 municipalities shall continue to regulate each kind of local

13-1 utility service inside their boundaries until the utility
 13-2 commission has assumed jurisdiction over the respective utility
 13-3 pursuant to this chapter.

13-4 (b) If a municipality does not surrender its jurisdiction,
 13-5 local utility service within the boundaries of the municipality
 13-6 shall be exempt from regulation by the utility commission under
 13-7 this chapter to the extent that this chapter applies to local
 13-8 service, and the municipality shall have, regarding service within
 13-9 its boundaries, the right to exercise the same regulatory powers
 13-10 under the same standards and rules as the utility commission or
 13-11 other standards and rules not inconsistent with them. The utility
 13-12 commission's rules relating to service and response to requests for
 13-13 service for utilities operating within a municipality's corporate
 13-14 limits apply unless the municipality adopts its own rules.

13-15 (c) Notwithstanding any election, the utility commission
 13-16 may consider water and sewer utilities' revenues and return on
 13-17 investment in exempt areas in fixing rates and charges in nonexempt
 13-18 areas and may also exercise the powers conferred necessary to give
 13-19 effect to orders under this chapter for the benefit of nonexempt
 13-20 areas. Likewise, in fixing rates and charges in the exempt area,
 13-21 the governing body may consider water and sewer utilities' revenues
 13-22 and return on investment in nonexempt areas.

13-23 (d) Utilities serving exempt areas are subject to the
 13-24 reporting requirements of this chapter. Those reports and tariffs
 13-25 shall be filed with the governing body of the municipality as well
 13-26 as with the utility commission.

13-27 (e) This section does not limit the duty and power of the
 13-28 utility commission to regulate service and rates of municipally
 13-29 regulated water and sewer utilities for service provided to other
 13-30 areas in Texas.

13-31 SECTION 2.20. Section 13.085, Water Code, is amended to
 13-32 read as follows:

13-33 Sec. 13.085. ASSISTANCE BY UTILITY COMMISSION. On request,
 13-34 the utility commission may advise and assist municipalities and
 13-35 affected counties in connection with questions and proceedings
 13-36 arising under this chapter. This assistance may include aid to
 13-37 municipalities or an affected county in connection with matters
 13-38 pending before the utility commission, the courts, the governing
 13-39 body of any municipality, or the commissioners court of an affected
 13-40 county, including making members of the staff available to them as
 13-41 witnesses and otherwise providing evidence.

13-42 SECTION 2.21. Section 13.087(c), Water Code, is amended to
 13-43 read as follows:

13-44 (c) Notwithstanding any other provision of this chapter,
 13-45 the utility commission has jurisdiction to enforce this section.

13-46 SECTION 2.22. Sections 13.131(a), (b), (c), and (e), Water
 13-47 Code, are amended to read as follows:

13-48 (a) Every water and sewer utility shall keep and render to
 13-49 the regulatory authority in the manner and form prescribed by the
 13-50 utility commission uniform accounts of all business transacted.
 13-51 The utility commission may also prescribe forms of books, accounts,
 13-52 records, and memoranda to be kept by those utilities, including the
 13-53 books, accounts, records, and memoranda of the rendition of and
 13-54 capacity for service as well as the receipts and expenditures of
 13-55 money, and any other forms, records, and memoranda that in the
 13-56 judgment of the utility commission may be necessary to carry out
 13-57 this chapter.

13-58 (b) In the case of a utility subject to regulation by a
 13-59 federal regulatory agency, compliance with the system of accounts
 13-60 prescribed for the particular class of utilities by that agency may
 13-61 be considered a sufficient compliance with the system prescribed by
 13-62 the utility commission. However, the utility commission may
 13-63 prescribe forms of books, accounts, records, and memoranda covering
 13-64 information in addition to that required by the federal agency. The
 13-65 system of accounts and the forms of books, accounts, records, and
 13-66 memoranda prescribed by the utility commission for a utility or
 13-67 class of utilities may not conflict or be inconsistent with the
 13-68 systems and forms established by a federal agency for that utility
 13-69 or class of utilities.

14-1 (c) The utility commission shall fix proper and adequate
 14-2 rates and methods of depreciation, amortization, or depletion of
 14-3 the several classes of property of each utility and shall require
 14-4 every utility to carry a proper and adequate depreciation account
 14-5 in accordance with those rates and methods and with any other rules
 14-6 the utility commission prescribes. Rules adopted under this
 14-7 subsection must require the book cost less net salvage of
 14-8 depreciable utility plant retired to be charged in its entirety to
 14-9 the accumulated depreciation account in a manner consistent with
 14-10 accounting treatment of regulated electric and gas utilities in
 14-11 this state. Those rates, methods, and accounts shall be utilized
 14-12 uniformly and consistently throughout the rate-setting and appeal
 14-13 proceedings.

14-14 (e) Every utility is required to keep and render its books,
 14-15 accounts, records, and memoranda accurately and faithfully in the
 14-16 manner and form prescribed by the utility commission and to comply
 14-17 with all directions of the regulatory authority relating to those
 14-18 books, accounts, records, and memoranda. The regulatory authority
 14-19 may require the examination and audit of all accounts.

14-20 SECTION 2.23. Section 13.132, Water Code, is amended to
 14-21 read as follows:

14-22 Sec. 13.132. POWERS OF UTILITY COMMISSION. (a) The
 14-23 utility commission may:

14-24 (1) require that water and sewer utilities report to
 14-25 it any information relating to themselves and affiliated interests
 14-26 both inside and outside this state that it considers useful in the
 14-27 administration of this chapter, including any information relating
 14-28 to a transaction between the utility and an affiliated interest
 14-29 inside or outside this state, to the extent that the transaction is
 14-30 subject to the utility commission's jurisdiction;

14-31 (2) establish forms for all reports;

14-32 (3) determine the time for reports and the frequency
 14-33 with which any reports are to be made;

14-34 (4) require that any reports be made under oath;

14-35 (5) require that a copy of any contract or arrangement
 14-36 between any utility and any affiliated interest be filed with it and
 14-37 require that such a contract or arrangement that is not in writing
 14-38 be reduced to writing;

14-39 (6) require that a copy of any report filed with any
 14-40 federal agency or any governmental agency or body of any other state
 14-41 be filed with it; and

14-42 (7) require that a copy of annual reports showing all
 14-43 payments of compensation, other than salary or wages subject to the
 14-44 withholding of federal income tax, made to residents of Texas, or
 14-45 with respect to legal, administrative, or legislative matters in
 14-46 Texas, or for representation before the Texas Legislature or any
 14-47 governmental agency or body be filed with it.

14-48 (b) On the request of the governing body of any
 14-49 municipality, the utility commission may provide sufficient staff
 14-50 members to advise and consult with the municipality on any pending
 14-51 matter.

14-52 SECTION 2.24. Section 13.1325, Water Code, is amended to
 14-53 read as follows:

14-54 Sec. 13.1325. ELECTRONIC COPIES OF RATE INFORMATION. On
 14-55 request, the utility commission [~~state agency with jurisdiction~~
 14-56 ~~over rates charged by water and sewer utilities~~] shall provide, at a
 14-57 reasonable cost, electronic copies of or Internet access to all
 14-58 information provided to the utility commission [~~agency~~] under
 14-59 Sections 13.016 and[~~7~~] 13.043[~~7~~] and Subchapter F [~~13.187~~]
 14-60 to the extent that the information is available and is not confidential.
 14-61 Copies of all information provided to the utility commission
 14-62 [~~agency~~] shall be provided to the Office of Public Utility Counsel,
 14-63 on request, at no cost to the office.

14-64 SECTION 2.25. Section 13.133(b), Water Code, is amended to
 14-65 read as follows:

14-66 (b) The regulatory authority may require, by order or
 14-67 subpoena served on any utility, the production within this state at
 14-68 the time and place it may designate of any books, accounts, papers,
 14-69 or records kept by that utility outside the state or verified copies

15-1 of them if the regulatory authority [~~commission~~] so orders. A
 15-2 utility failing or refusing to comply with such an order or subpoena
 15-3 violates this chapter.

15-4 SECTION 2.26. Section 13.136, Water Code, is amended by
 15-5 amending Subsections (b) and (c) and adding Subsection (b-1) to
 15-6 read as follows:

15-7 (b) The utility commission by rule shall require each [Each]
 15-8 utility to annually [shall] file a service, [and] financial, and
 15-9 normalized earnings report in a form and at times specified by
 15-10 utility commission rule. The report must include information
 15-11 sufficient to enable the utility commission to properly monitor
 15-12 utilities in this state. The utility commission shall make
 15-13 available to the public information in the report the utility does
 15-14 not file as confidential.

15-15 (b-1) The utility commission shall provide copies of a
 15-16 report described by Subsection (b) that include information filed
 15-17 as confidential to the Office of Public Utility Counsel on request,
 15-18 at no cost to the office.

15-19 (c) Every water supply or sewer service corporation shall
 15-20 file with the utility commission tariffs showing all rates that are
 15-21 subject to the appellate jurisdiction of the utility commission and
 15-22 that are in force at the time for any utility service, product, or
 15-23 commodity offered. Every water supply or sewer service corporation
 15-24 shall file with and as a part of those tariffs all rules and
 15-25 regulations relating to or affecting the rates, utility service,
 15-26 product, or commodity furnished. The filing required under this
 15-27 subsection shall be for informational purposes only.

15-28 SECTION 2.27. Section 13.137, Water Code, is amended to
 15-29 read as follows:

15-30 Sec. 13.137. OFFICE AND OTHER BUSINESS LOCATIONS OF
 15-31 UTILITY; RECORDS; REMOVAL FROM STATE. (a) Every utility shall:

15-32 (1) make available and notify its customers of a
 15-33 business location where its customers may make payments to prevent
 15-34 disconnection of or to restore service:

15-35 (A) in each county in which the utility provides
 15-36 service; or

15-37 (B) not more than 20 miles from the residence of
 15-38 any residential customer if there is no location to receive
 15-39 payments in the county; and

15-40 (2) have an office in a county of this state or in the
 15-41 immediate area in which its property or some part of its property is
 15-42 located in which it shall keep all books, accounts, records, and
 15-43 memoranda required by the utility commission to be kept in this
 15-44 state.

15-45 (b) The utility commission by rule may provide for waiving
 15-46 the requirements of Subsection (a)(1) for a utility for which
 15-47 meeting those requirements would cause a rate increase or otherwise
 15-48 harm or inconvenience customers. The rules must provide for an
 15-49 additional 14 days to be given for a customer to pay before a
 15-50 utility that is granted a waiver may disconnect service for late
 15-51 payment.

15-52 (c) Books, accounts, records, or memoranda required by the
 15-53 regulatory authority to be kept in the state may not be removed from
 15-54 the state, except on conditions prescribed by the utility
 15-55 commission.

15-56 SECTION 2.28. Section 13.139(b), Water Code, is amended to
 15-57 read as follows:

15-58 (b) The governing body of a municipality, as the regulatory
 15-59 authority for public utilities operating within its corporate
 15-60 limits, and the utility commission or the commission as the
 15-61 regulatory authority for public utilities operating outside the
 15-62 corporate limits of any municipality, after reasonable notice and
 15-63 hearing on its own motion, may:

15-64 (1) ascertain and fix just and reasonable standards,
 15-65 classifications, regulations, service rules, minimum service
 15-66 standards or practices to be observed and followed with respect to
 15-67 the service to be furnished;

15-68 (2) ascertain and fix adequate and reasonable
 15-69 standards for the measurement of the quantity, quality, pressure,

16-1 or other condition pertaining to the supply of the service;
16-2 (3) prescribe reasonable regulations for the
16-3 examination and testing of the service and for the measurement of
16-4 service; and

16-5 (4) establish or approve reasonable rules,
16-6 regulations, specifications, and standards to secure the accuracy
16-7 of all meters, instruments, and equipment used for the measurement
16-8 of any utility service.

16-9 SECTION 2.29. Section 13.1395, Water Code, is amended by
16-10 adding Subsection (m) to read as follows:

16-11 (m) The commission shall coordinate with the utility
16-12 commission in the administration of this section.

16-13 SECTION 2.30. Sections 13.1396(b), (c), and (f), Water
16-14 Code, are amended to read as follows:

16-15 (b) An affected utility shall submit to the office of
16-16 emergency management of each county in which the utility has more
16-17 than one customer, the utility commission [~~Public Utility~~
16-18 ~~Commission of Texas~~], and the office of emergency management of the
16-19 governor a copy of:

16-20 (1) the affected utility's emergency preparedness plan
16-21 approved under Section 13.1395; and

16-22 (2) the commission's notification to the affected
16-23 utility that the plan is accepted.

16-24 (c) Each affected utility shall submit to the utility
16-25 commission, each electric utility that provides transmission and
16-26 distribution service to the affected utility, each retail electric
16-27 provider that sells electric power to the affected utility, the
16-28 office of emergency management of each county in which the utility
16-29 has water and wastewater facilities that qualify for critical load
16-30 status under rules adopted by the utility commission [~~Public~~
16-31 ~~Utility Commission of Texas~~, the ~~Public Utility Commission of~~
16-32 ~~Texas~~], and the division of emergency management of the governor:

16-33 (1) information identifying the location and
16-34 providing a general description of all water and wastewater
16-35 facilities that qualify for critical load status; and

16-36 (2) emergency contact information for the affected
16-37 utility, including:

16-38 (A) the person who will serve as a point of
16-39 contact and the person's telephone number;

16-40 (B) the person who will serve as an alternative
16-41 point of contact and the person's telephone number; and

16-42 (C) the affected utility's mailing address.

16-43 (f) Not later than May 1 of each year, each electric utility
16-44 and each retail electric provider shall determine whether the
16-45 facilities of the affected utility qualify for critical load status
16-46 under rules adopted by the utility commission [~~Public Utility~~
16-47 ~~Commission of Texas~~].

16-48 SECTION 2.31. Section 13.142(b), Water Code, is amended to
16-49 read as follows:

16-50 (b) The utility commission shall adopt rules concerning
16-51 payment of utility bills that are consistent with Chapter 2251,
16-52 Government Code.

16-53 SECTION 2.32. Section 13.144, Water Code, is amended to
16-54 read as follows:

16-55 Sec. 13.144. NOTICE OF WHOLESALE WATER SUPPLY CONTRACT. A
16-56 district or authority created under Section 52, Article III, or
16-57 Section 59, Article XVI, Texas Constitution, a retail public
16-58 utility, a wholesale water service, or other person providing a
16-59 retail public utility with a wholesale water supply shall provide
16-60 the utility commission and the commission with a certified copy of
16-61 any wholesale water supply contract with a retail public utility
16-62 within 30 days after the date of the execution of the contract. The
16-63 submission must include the amount of water being supplied, term of
16-64 the contract, consideration being given for the water, purpose of
16-65 use, location of use, source of supply, point of delivery,
16-66 limitations on the reuse of water, a disclosure of any affiliated
16-67 interest between the parties to the contract, and any other
16-68 condition or agreement relating to the contract.

16-69 SECTION 2.33. Section 13.147(a), Water Code, is amended to

17-1 read as follows:

17-2 (a) A retail public utility providing water service may
 17-3 contract with a retail public utility providing sewer service to
 17-4 bill and collect the sewer service provider's fees and payments as
 17-5 part of a consolidated process with the billing and collection of
 17-6 the water service provider's fees and payments. The water service
 17-7 provider may provide that service only for customers who are served
 17-8 by both providers in an area covered by both providers'
 17-9 certificates of public convenience and necessity. If the water
 17-10 service provider refuses to enter into a contract under this
 17-11 section or if the water service provider and sewer service provider
 17-12 cannot agree on the terms of a contract, the sewer service provider
 17-13 may petition the utility commission to issue an order requiring the
 17-14 water service provider to provide that service.

17-15 SECTION 2.34. Section 13.181(b), Water Code, is amended to
 17-16 read as follows:

17-17 (b) Subject to this chapter, the utility commission has all
 17-18 authority and power of the state to ensure compliance with the
 17-19 obligations of utilities under this chapter. For this purpose the
 17-20 regulatory authority may fix and regulate rates of utilities,
 17-21 including rules and regulations for determining the classification
 17-22 of customers and services and for determining the applicability of
 17-23 rates. A rule or order of the regulatory authority may not conflict
 17-24 with the rulings of any federal regulatory body. The utility
 17-25 commission may adopt rules which authorize a utility which is
 17-26 permitted under Section 13.242(c) to provide service without a
 17-27 certificate of public convenience and necessity to request or
 17-28 implement a rate increase and operate according to rules,
 17-29 regulations, and standards of service other than those otherwise
 17-30 required under this chapter provided that rates are just and
 17-31 reasonable for customers and the utility and that service is safe,
 17-32 adequate, efficient, and reasonable.

17-33 SECTION 2.35. Sections 13.182(c) and (d), Water Code, are
 17-34 amended to read as follows:

17-35 (c) For ratemaking purposes, the utility commission may
 17-36 treat two or more municipalities served by a utility as a single
 17-37 class wherever the utility commission considers that treatment to
 17-38 be appropriate.

17-39 (d) The utility commission by rule shall establish a
 17-40 preference that rates under a consolidated tariff be consolidated
 17-41 by region. The regions under consolidated tariffs must be
 17-42 determined on a case-by-case basis.

17-43 SECTION 2.36. Section 13.183(d), Water Code, is amended to
 17-44 read as follows:

17-45 (d) A regulatory authority other than the utility
 17-46 commission may not approve an acquisition adjustment for a system
 17-47 purchased before the effective date of an ordinance authorizing
 17-48 acquisition adjustments.

17-49 SECTION 2.37. Section 13.184(a), Water Code, is amended to
 17-50 read as follows:

17-51 (a) Unless the utility commission establishes alternate
 17-52 rate methodologies in accordance with Section 13.183(c), the
 17-53 utility commission may not prescribe any rate that will yield more
 17-54 than a fair return on the invested capital used and useful in
 17-55 rendering service to the public. The governing body of a
 17-56 municipality exercising its original jurisdiction over rates and
 17-57 services may use alternate ratemaking methodologies established by
 17-58 ordinance or by utility commission rule in accordance with Section
 17-59 13.183(c). Unless the municipal regulatory authority uses
 17-60 alternate ratemaking methodologies established by ordinance or by
 17-61 utility commission rule in accordance with Section 13.183(c), it
 17-62 may not prescribe any rate that will yield more than a fair return
 17-63 on the invested capital used and useful in rendering service to the
 17-64 public.

17-65 SECTION 2.38. Sections 13.185(d) and (h), Water Code, are
 17-66 amended to read as follows:

17-67 (d) Net income is the total revenues of the utility less all
 17-68 reasonable and necessary expenses as determined by the regulatory
 17-69 authority. The regulatory authority shall:

18-1 (1) base a utility's expenses on historic test year
 18-2 information adjusted for known and measurable changes, as
 18-3 determined by utility commission rules; and

18-4 (2) determine expenses and revenues in a manner
 18-5 consistent with Subsections (e) through (h) of this section.

18-6 (h) The regulatory authority may not include for ratemaking
 18-7 purposes:

18-8 (1) legislative advocacy expenses, whether made
 18-9 directly or indirectly, including legislative advocacy expenses
 18-10 included in trade association dues;

18-11 (2) costs of processing a refund or credit under this
 18-12 subchapter [~~Section 13.187 of this chapter~~]; or

18-13 (3) any expenditure found by the regulatory authority
 18-14 to be unreasonable, unnecessary, or not in the public interest,
 18-15 including executive salaries, advertising expenses, legal
 18-16 expenses, and civil penalties or fines.

18-17 SECTION 2.39. Section 13.187, Water Code, is amended to
 18-18 read as follows:

18-19 Sec. 13.187. CLASS A UTILITIES: STATEMENT OF INTENT TO
 18-20 CHANGE RATES; HEARING; DETERMINATION OF RATE LEVEL. (a) This
 18-21 section applies only to a Class A utility.

18-22 (a-1) A utility may not make changes in its rates except by
 18-23 sending by mail or e-mail [~~delivering~~] a statement of intent to each
 18-24 ratepayer and to [~~with~~] the regulatory authority having original
 18-25 jurisdiction at least 35 [~~60~~] days before the effective date of the
 18-26 proposed change. The utility may send the statement of intent to a
 18-27 ratepayer by e-mail only if the ratepayer has agreed to receive
 18-28 communications electronically. The effective date of the new rates
 18-29 must be the first day of a billing period, and the new rates may not
 18-30 apply to service received before the effective date of the new
 18-31 rates. The statement of intent must include:

18-32 (1) the information required by the regulatory
 18-33 authority's rules;

18-34 (2) a billing comparison regarding the existing water
 18-35 rate and the new water rate computed for the use of:

18-36 (A) 10,000 gallons of water; and

18-37 (B) 30,000 gallons of water; [~~and~~]

18-38 (3) a billing comparison regarding the existing sewer
 18-39 rate and the new sewer rate computed for the use of 10,000 gallons,
 18-40 unless the utility proposes a flat rate for sewer services; and

18-41 (4) a description of the process by which a ratepayer
 18-42 may intervene in the ratemaking proceeding.

18-43 (b) The utility shall mail, send by e-mail, or deliver a [~~A~~]
 18-44 copy of the statement of intent [~~shall be mailed, sent by e-mail, or~~
 18-45 ~~delivered~~] to the Office of Public Utility Counsel, appropriate
 18-46 offices of each affected municipality, and [~~to~~] any other affected
 18-47 persons as required by the regulatory authority's rules.

18-48 (c) When the statement of intent is delivered, the utility
 18-49 shall file with the regulatory authority an application to change
 18-50 rates. The application must include information the regulatory
 18-51 authority requires by rule and any appropriate cost and rate
 18-52 schedules and written testimony supporting the requested rate
 18-53 increase. If the utility fails to provide within a reasonable time
 18-54 after the application is filed the necessary documentation or other
 18-55 evidence that supports the costs and expenses that are shown in the
 18-56 application, the regulatory authority may disallow the
 18-57 nonsupported costs or expenses.

18-58 (d) Except as provided by Subsections [~~Subsection~~] (d-1)
 18-59 and (e), if the application or the statement of intent is not
 18-60 substantially complete or does not comply with the regulatory
 18-61 authority's rules, it may be rejected and the effective date of the
 18-62 rate change may be suspended until a properly completed application
 18-63 is accepted by the regulatory authority and a proper statement of
 18-64 intent is provided. The utility commission may also suspend the
 18-65 effective date of any rate change if the utility does not have a
 18-66 certificate of public convenience and necessity or a completed
 18-67 application for a certificate or to transfer a certificate pending
 18-68 before the utility commission or if the utility is delinquent in
 18-69 paying the assessment and any applicable penalties or interest

19-1 required by Section 5.701(n) ~~[of this code]~~.

19-2 (d-1) After written notice to the utility, a local
19-3 regulatory authority may suspend the effective date of a rate
19-4 change for not more than 90 days from the proposed effective date~~[,~~
19-5 ~~except that the suspension shall be extended by two days for each~~
19-6 ~~day a hearing exceeds 15 days]~~. If the local regulatory authority
19-7 does not make a final determination on the proposed rate before the
19-8 expiration of the ~~[applicable]~~ suspension period, the proposed rate
19-9 shall be considered approved. This [The] approval is subject to the
19-10 authority of the local regulatory authority thereafter to continue
19-11 [authority's continuation of] a hearing in progress.

19-12 (e) After written notice to the utility, the utility
19-13 commission may suspend the effective date of a rate change for not
19-14 more than 150 days from the proposed effective date. If the utility
19-15 commission does not make a final determination on the proposed rate
19-16 before the expiration of the suspension period, the proposed rate
19-17 shall be considered approved. This approval is subject to the
19-18 authority of the utility commission thereafter to continue a
19-19 hearing in progress [If, before the 91st day after the effective
19-20 date of the rate change, the regulatory authority receives a
19-21 complaint from any affected municipality, or from the lesser of
19-22 1,000 or 10 percent of the ratepayers of the utility over whose
19-23 rates the regulatory authority has original jurisdiction, the
19-24 regulatory authority shall set the matter for hearing].

19-25 (e-1) The 150-day period described by Subsection (e) shall
19-26 be extended two days for each day a hearing exceeds 15 days.

19-27 (f) The regulatory authority shall, not later than the 30th
19-28 day after the effective date of the change, begin a hearing to
19-29 determine the propriety of the change [may set the matter for
19-30 hearing on its own motion at any time within 120 days after the
19-31 effective date of the rate change]. If the regulatory authority is
19-32 the utility commission, the utility commission may refer the matter
19-33 to the State Office of Administrative Hearings as provided by
19-34 utility commission rules [If more than half of the ratepayers of the
19-35 utility receive service in a county with a population of more than
19-36 3.3 million, the hearing must be held at a location in that county].

19-37 (g) A local regulatory authority [The] hearing described by
19-38 this section may be informal.

19-39 (g-1) If the regulatory authority is the utility
19-40 commission, the utility commission shall give reasonable notice of
19-41 the hearing, including notice to the governing body of each
19-42 affected municipality and county. The utility is not required to
19-43 provide a formal answer or file any other formal pleading in
19-44 response to the notice, and the absence of an answer does not affect
19-45 an order for a hearing.

19-46 (h) If, after hearing, the regulatory authority finds the
19-47 rates currently being charged or those proposed to be charged are
19-48 unreasonable or in violation of law, the regulatory authority shall
19-49 determine the rates to be charged by the utility and shall fix the
19-50 rates by order served on the utility.

19-51 (i) A utility may put a changed rate into effect throughout
19-52 the area in which the utility sought to change its rates, including
19-53 an area over which the utility commission is exercising appellate
19-54 or original jurisdiction, by filing a bond with the utility
19-55 commission if the suspension period has been extended under
19-56 Subsection (e-1) and the utility commission fails to make a final
19-57 determination before the 151st day after the date the rate change
19-58 would otherwise be effective.

19-59 (j) The bonded rate may not exceed the proposed rate. The
19-60 bond must be payable to the utility commission in an amount, in a
19-61 form, and with a surety approved by the utility commission and
19-62 conditioned on refund [The regulatory authority, pending final
19-63 action in a rate proceeding, may order the utility to deposit all or
19-64 part of the rate increase received or to be received into an escrow
19-65 account with a financial institution approved by the regulatory
19-66 authority].

19-67 (k) Unless otherwise agreed to by the parties to the rate
19-68 proceeding, the utility shall refund or credit against future
19-69 bills:

20-1 (1) all sums collected under the bonded rates ~~[during~~
 20-2 ~~the pendency of the rate proceeding]~~ in excess of the rate finally
 20-3 ordered; and

20-4 (2) [plus] interest on those sums at the current
 20-5 interest rate as determined by the regulatory authority.

20-6 ~~[(j) For good cause shown, the regulatory authority may~~
 20-7 ~~authorize the release of funds to the utility from the escrow~~
 20-8 ~~account during the pendency of the proceeding.~~

20-9 ~~[(k) If the regulatory authority receives at least the~~
 20-10 ~~number of complaints from ratepayers required for the regulatory~~
 20-11 ~~authority to set a hearing under Subsection (e), the regulatory~~
 20-12 ~~authority may, pending the hearing and a decision, suspend the date~~
 20-13 ~~the rate change would otherwise be effective. Except as provided by~~
 20-14 ~~Subsection (d-1), the proposed rate may not be suspended for longer~~
 20-15 ~~than:~~

20-16 ~~[(1) 90 days by a local regulatory authority; or~~

20-17 ~~[(2) 150 days by the commission.]~~

20-18 (1) At any time during the pendency of the rate proceeding
 20-19 the regulatory authority may fix interim rates to remain in effect
 20-20 during the applicable suspension period under Subsection (d-1) or
 20-21 Subsections (e) and (e-1) or until a final determination is made on
 20-22 the proposed rate. If the regulatory authority does not establish
 20-23 interim rates, the rates in effect when the application described
 20-24 by Subsection (c) was filed continue in effect during the
 20-25 suspension period.

20-26 (m) If the regulatory authority sets a final rate that is
 20-27 higher than the interim rate, the utility shall be allowed to
 20-28 collect the difference between the interim rate and final rate
 20-29 unless otherwise agreed to by the parties to the rate proceeding.

20-30 (n) For good cause shown, the regulatory authority may at
 20-31 any time during the proceeding require the utility to refund money
 20-32 collected under a proposed rate before the rate was suspended or an
 20-33 interim rate was established to the extent the proposed rate
 20-34 exceeds the existing rate or the interim rate.

20-35 (o) If a regulatory authority other than the utility
 20-36 commission establishes interim rates or bonded rates ~~[an escrow~~
 20-37 ~~account]~~, the regulatory authority must make a final determination
 20-38 on the rates not later than the first anniversary of the effective
 20-39 date of the interim rates or bonded ~~[escrowed]~~ rates or the rates
 20-40 are automatically approved as requested by the utility.

20-41 (p) Except to implement a rate adjustment provision
 20-42 approved by the regulatory authority by rule or ordinance, as
 20-43 applicable, or to adjust the rates of a newly acquired utility
 20-44 system, a utility or two or more utilities under common control and
 20-45 ownership may not file a statement of intent to increase its rates
 20-46 more than once in a 12-month period, unless the regulatory
 20-47 authority determines that a financial hardship exists. If the
 20-48 regulatory authority requires the utility to deliver a corrected
 20-49 statement of intent, the utility is not considered to be in
 20-50 violation of the 12-month filing requirement.

20-51 SECTION 2.40. Subchapter F, Chapter 13, Water Code, is
 20-52 amended by adding Sections 13.1871 and 13.1872 to read as follows:

20-53 Sec. 13.1871. CLASS B UTILITIES: STATEMENT OF INTENT TO
 20-54 CHANGE RATES; HEARING; DETERMINATION OF RATE LEVEL. (a) Except as
 20-55 provided by Section 13.1872, this section applies only to a Class B
 20-56 utility.

20-57 (b) A utility may not make changes in its rates except by
 20-58 sending by mail or e-mail a statement of intent to each ratepayer
 20-59 and to the regulatory authority having original jurisdiction at
 20-60 least 35 days before the effective date of the proposed change. The
 20-61 utility may send the statement of intent to a ratepayer by e-mail
 20-62 only if the ratepayer has agreed to receive communications
 20-63 electronically. The effective date of the new rates must be the
 20-64 first day of a billing period, and the new rates may not apply to
 20-65 service received before the effective date of the new rates. The
 20-66 statement of intent must include:

20-67 (1) the information required by the regulatory
 20-68 authority's rules;

20-69 (2) a billing comparison regarding the existing water

21-1 rate and the new water rate computed for the use of:

21-2 (A) 10,000 gallons of water; and

21-3 (B) 30,000 gallons of water;

21-4 (3) a billing comparison regarding the existing sewer
 21-5 rate and the new sewer rate computed for the use of 10,000 gallons,
 21-6 unless the utility proposes a flat rate for sewer services; and

21-7 (4) a description of the process by which a ratepayer
 21-8 may file a complaint under Subsection (i).

21-9 (c) The utility shall mail, send by e-mail, or deliver a
 21-10 copy of the statement of intent to the appropriate offices of each
 21-11 affected municipality and to any other affected persons as required
 21-12 by the regulatory authority's rules.

21-13 (d) When the statement of intent is delivered, the utility
 21-14 shall file with the regulatory authority an application to change
 21-15 rates. The application must include information the regulatory
 21-16 authority requires by rule and any appropriate cost and rate
 21-17 schedules supporting the requested rate increase. In adopting
 21-18 rules relating to the information required in the application, the
 21-19 utility commission shall ensure that a utility can file a less
 21-20 burdensome and complex application than is required of a Class A
 21-21 utility. If the utility fails to provide within a reasonable time
 21-22 after the application is filed the necessary documentation or other
 21-23 evidence that supports the costs and expenses that are shown in the
 21-24 application, the regulatory authority may disallow the
 21-25 nonsupported costs or expenses.

21-26 (e) Except as provided by Subsection (f) or (g), if the
 21-27 application or the statement of intent is not substantially
 21-28 complete or does not comply with the regulatory authority's rules,
 21-29 it may be rejected and the effective date of the rate change may be
 21-30 suspended until a properly completed application is accepted by the
 21-31 regulatory authority and a proper statement of intent is provided.
 21-32 The utility commission may also suspend the effective date of any
 21-33 rate change if the utility does not have a certificate of public
 21-34 convenience and necessity or a completed application for a
 21-35 certificate or to transfer a certificate pending before the utility
 21-36 commission or if the utility is delinquent in paying the assessment
 21-37 and any applicable penalties or interest required by Section
 21-38 5.701(n).

21-39 (f) After written notice to the utility, a local regulatory
 21-40 authority may suspend the effective date of a rate change for not
 21-41 more than 90 days from the proposed effective date. If the local
 21-42 regulatory authority does not make a final determination on the
 21-43 proposed rate before the expiration of the suspension period, the
 21-44 proposed rate shall be considered approved. This approval is
 21-45 subject to the authority of the local regulatory authority
 21-46 thereafter to continue a hearing in progress.

21-47 (g) After written notice to the utility, the utility
 21-48 commission may suspend the effective date of a rate change for not
 21-49 more than 205 days from the proposed effective date. If the utility
 21-50 commission does not make a final determination on the proposed rate
 21-51 before the expiration of the suspension period, the proposed rate
 21-52 shall be considered approved. This approval is subject to the
 21-53 authority of the utility commission thereafter to continue a
 21-54 hearing in progress.

21-55 (h) The 205-day period described by Subsection (g) shall be
 21-56 extended by two days for each day a hearing exceeds 15 days.

21-57 (i) If, before the 91st day after the effective date of the
 21-58 rate change, the regulatory authority receives a complaint from any
 21-59 affected municipality, or from the lesser of 1,000 or 10 percent of
 21-60 the ratepayers of the utility over whose rates the regulatory
 21-61 authority has original jurisdiction, the regulatory authority
 21-62 shall set the matter for hearing.

21-63 (j) If the regulatory authority receives at least the number
 21-64 of complaints from ratepayers required for the regulatory authority
 21-65 to set a hearing under Subsection (i), the regulatory authority
 21-66 may, pending the hearing and a decision, suspend the date the rate
 21-67 change would otherwise be effective. Except as provided by
 21-68 Subsection (h), the proposed rate may not be suspended for longer
 21-69 than:

22-1 (1) 90 days by a local regulatory authority; or

22-2 (2) 205 days by the utility commission.

22-3 (k) The regulatory authority may set the matter for hearing
22-4 on its own motion at any time within 120 days after the effective
22-5 date of the rate change.

22-6 (l) The hearing may be informal.

22-7 (m) The regulatory authority shall give reasonable notice
22-8 of the hearing, including notice to the governing body of each
22-9 affected municipality and county. The utility is not required to
22-10 provide a formal answer or file any other formal pleading in
22-11 response to the notice, and the absence of an answer does not affect
22-12 an order for a hearing.

22-13 (n) The utility shall mail notice of the hearing to each
22-14 ratepayer before the hearing. The notice must include a
22-15 description of the process by which a ratepayer may intervene in the
22-16 ratemaking proceeding.

22-17 (o) If, after hearing, the regulatory authority finds the
22-18 rates currently being charged or those proposed to be charged are
22-19 unreasonable or in violation of law, the regulatory authority shall
22-20 determine the rates to be charged by the utility and shall fix the
22-21 rates by order served on the utility.

22-22 (p) A utility may put a changed rate into effect throughout
22-23 the area in which the utility sought to change its rates, including
22-24 an area over which the utility commission is exercising appellate
22-25 or original jurisdiction, by filing a bond with the utility
22-26 commission if the suspension period has been extended under
22-27 Subsection (h) and the utility commission fails to make a final
22-28 determination before the 206th day after the date the rate change
22-29 would otherwise be effective.

22-30 (q) The bonded rate may not exceed the proposed rate. The
22-31 bond must be payable to the utility commission in an amount, in a
22-32 form, and with a surety approved by the utility commission and
22-33 conditioned on refund.

22-34 (r) Unless otherwise agreed to by the parties to the rate
22-35 proceeding, the utility shall refund or credit against future
22-36 bills:

22-37 (1) all sums collected under the bonded rates in
22-38 excess of the rate finally ordered; and

22-39 (2) interest on those sums at the current interest
22-40 rate as determined by the regulatory authority.

22-41 (s) At any time during the pendency of the rate proceeding
22-42 the regulatory authority may fix interim rates to remain in effect
22-43 during the applicable suspension period under Subsection (f) or
22-44 Subsections (g) and (h) or until a final determination is made on
22-45 the proposed rate. If the regulatory authority does not establish
22-46 interim rates, the rates in effect when the application described
22-47 by Subsection (d) was filed continue in effect during the
22-48 suspension period.

22-49 (t) If the regulatory authority sets a final rate that is
22-50 higher than the interim rate, the utility shall be allowed to
22-51 collect the difference between the interim rate and final rate
22-52 unless otherwise agreed to by the parties to the rate proceeding.

22-53 (u) For good cause shown, the regulatory authority may at
22-54 any time during the proceeding require the utility to refund money
22-55 collected under a proposed rate before the rate was suspended or an
22-56 interim rate was established to the extent the proposed rate
22-57 exceeds the existing rate or the interim rate.

22-58 (v) If a regulatory authority other than the utility
22-59 commission establishes interim rates or bonded rates, the
22-60 regulatory authority must make a final determination on the rates
22-61 not later than the first anniversary of the effective date of the
22-62 interim rates or bonded rates or the rates are automatically
22-63 approved as requested by the utility.

22-64 (w) Except to implement a rate adjustment provision
22-65 approved by the regulatory authority by rule or ordinance, as
22-66 applicable, or to adjust the rates of a newly acquired utility
22-67 system, a utility or two or more utilities under common control and
22-68 ownership may not file a statement of intent to increase its rates
22-69 more than once in a 12-month period, unless the regulatory

23-1 authority determines that a financial hardship exists. If the
 23-2 regulatory authority requires the utility to deliver a corrected
 23-3 statement of intent, the utility is not considered to be in
 23-4 violation of the 12-month filing requirement.

23-5 Sec. 13.1872. CLASS C UTILITIES: RATE ADJUSTMENT.

23-6 (a) This section applies only to a Class C utility.
 23-7 (b) For purposes of this section, "price index" means an
 23-8 appropriate price index designated annually by the utility
 23-9 commission for the purposes of this section.

23-10 (c) A utility may not make changes in its rates except by:

23-11 (1) filing an application for a rate adjustment under
 23-12 the procedures described by Subsection (e) and sending by mail, or
 23-13 by e-mail if the ratepayer has agreed to receive communications
 23-14 electronically, a notice to each ratepayer describing the proposed
 23-15 rate adjustment at least 30 days before the effective date of the
 23-16 proposed change; or

23-17 (2) complying with the procedures to change rates
 23-18 described by Section 13.1871.

23-19 (d) The utility shall mail, send by e-mail, or deliver a
 23-20 copy of the application to the appropriate offices of each affected
 23-21 municipality and to any other affected persons as required by the
 23-22 regulatory authority's rules.

23-23 (e) The utility commission by rule shall adopt procedures to
 23-24 allow a utility to receive without a hearing an annual rate
 23-25 adjustment based on changes in the price index. The rules must:

23-26 (1) include standard language to be included in the
 23-27 notice described by Subsection (c)(1) describing the rate
 23-28 adjustment process; and

23-29 (2) provide that an annual rate adjustment described
 23-30 by this section may not result in a rate increase to any class or
 23-31 category of ratepayer of more than the lesser of:

23-32 (A) five percent; or

23-33 (B) the percentage increase in the price index
 23-34 between the year preceding the year in which the utility requests
 23-35 the adjustment and the year in which the utility requests the
 23-36 adjustment.

23-37 (f) A utility may adjust the utility's rates using the
 23-38 procedures adopted under Subsection (e) not more than once each
 23-39 year and not more than four times between rate proceedings
 23-40 described by Section 13.1871.

23-41 SECTION 2.41. Section 13.188, Water Code, is amended to
 23-42 read as follows:

23-43 Sec. 13.188. ADJUSTMENT FOR CHANGE IN ENERGY COSTS. (a)
 23-44 Notwithstanding any other provision in this chapter, the utility
 23-45 commission by rule shall adopt a procedure allowing a utility to
 23-46 file with the utility commission an application to timely adjust
 23-47 the utility's rates to reflect an increase or decrease in
 23-48 documented energy costs in a pass through clause. The utility
 23-49 commission, by rule, shall require the pass through of documented
 23-50 decreases in energy costs within a reasonable time. The pass
 23-51 through, whether a decrease or increase, shall be implemented on no
 23-52 later than an annual basis, unless the utility commission
 23-53 determines a special circumstance applies.

23-54 (b) Notwithstanding any other provision to the contrary,
 23-55 this adjustment is an uncontested matter not subject to a contested
 23-56 case hearing. However, the utility commission [~~executive director~~]
 23-57 shall hold an uncontested public meeting:

23-58 (1) on the request of a member of the legislature who
 23-59 represents the area served by the water and sewer utility; or

23-60 (2) if the utility commission [~~executive director~~]
 23-61 determines that there is substantial public interest in the matter.

23-62 (c) A proceeding under this section is not a rate case and
 23-63 Sections [~~Section~~] 13.187, 13.1871, and 13.1872 do [~~does~~]
 23-64 not apply.

23-65 SECTION 2.42. Sections 13.241(a), (d), and (e), Water Code,
 23-66 are amended to read as follows:

23-67 (a) In determining whether to grant or amend a certificate
 23-68 of public convenience and necessity, the utility commission shall
 23-69 ensure that the applicant possesses the financial, managerial, and

24-1 technical capability to provide continuous and adequate service.
24-2 (d) Before the utility commission grants a new certificate
24-3 of convenience and necessity for an area which would require
24-4 construction of a physically separate water or sewer system, the
24-5 applicant must demonstrate to the utility commission that
24-6 regionalization or consolidation with another retail public
24-7 utility is not economically feasible.

24-8 (e) The utility commission by rule shall develop a
24-9 standardized method for determining under Section 13.246(f) which
24-10 of two or more retail public utilities or water supply or sewer
24-11 service corporations that apply for a certificate of public
24-12 convenience and necessity to provide water or sewer utility service
24-13 to an uncertificated area located in an economically distressed
24-14 area is more capable financially, managerially, and technically of
24-15 providing continuous and adequate service. In this subsection,
24-16 "economically distressed area" has the meaning assigned by Section
24-17 15.001.

24-18 SECTION 2.43. Sections 13.242(a) and (c), Water Code, are
24-19 amended to read as follows:

24-20 (a) Unless otherwise specified, a utility, a utility
24-21 operated by an affected county, or a water supply or sewer service
24-22 corporation may not in any way render retail water or sewer utility
24-23 service directly or indirectly to the public without first having
24-24 obtained from the utility commission a certificate that the present
24-25 or future public convenience and necessity will require that
24-26 installation, operation, or extension, and except as otherwise
24-27 provided by this subchapter, a retail public utility may not
24-28 furnish, make available, render, or extend retail water or sewer
24-29 utility service to any area to which retail water or sewer utility
24-30 service is being lawfully furnished by another retail public
24-31 utility without first having obtained a certificate of public
24-32 convenience and necessity that includes the area in which the
24-33 consuming facility is located.

24-34 (c) The utility commission may by rule allow a municipality
24-35 or utility or water supply corporation to render retail water
24-36 service without a certificate of public convenience and necessity
24-37 if the municipality has given notice under Section 13.255 [~~of this~~
24-38 ~~code~~] that it intends to provide retail water service to an area or
24-39 if the utility or water supply corporation has less than 15
24-40 potential connections and is not within the certificated area of
24-41 another retail public utility.

24-42 SECTION 2.44. Section 13.244, Water Code, is amended to
24-43 read as follows:

24-44 Sec. 13.244. APPLICATION; MAPS AND OTHER INFORMATION;
24-45 EVIDENCE AND CONSENT. (a) To obtain a certificate of public
24-46 convenience and necessity or an amendment to a certificate, a
24-47 public utility or water supply or sewer service corporation shall
24-48 submit to the utility commission an application for a certificate
24-49 or for an amendment as provided by this section.

24-50 (b) Each public utility and water supply or sewer service
24-51 corporation shall file with the utility commission a map or maps
24-52 showing all its facilities and illustrating separately facilities
24-53 for production, transmission, and distribution of its services, and
24-54 each certificated retail public utility shall file with the utility
24-55 commission a map or maps showing any facilities, customers, or area
24-56 currently being served outside its certificated areas.

24-57 (c) Each applicant for a certificate or for an amendment
24-58 shall file with the utility commission evidence required by the
24-59 utility commission to show that the applicant has received the
24-60 required consent, franchise, or permit of the proper municipality
24-61 or other public authority.

24-62 (d) An application for a certificate of public convenience
24-63 and necessity or for an amendment to a certificate must contain:

- 24-64 (1) a description of the proposed service area by:
 - 24-65 (A) a metes and bounds survey certified by a
24-66 licensed state land surveyor or a registered professional land
24-67 surveyor;
 - 24-68 (B) the Texas State Plane Coordinate System;
 - 24-69 (C) verifiable landmarks, including a road,

25-1 creek, or railroad line; or
 25-2 (D) if a recorded plat of the area exists, lot and
 25-3 block number;
 25-4 (2) a description of any requests for service in the
 25-5 proposed service area;
 25-6 (3) a capital improvements plan, including a budget
 25-7 and estimated timeline for construction of all facilities necessary
 25-8 to provide full service to the entire proposed service area;
 25-9 (4) a description of the sources of funding for all
 25-10 facilities;
 25-11 (5) to the extent known, a description of current and
 25-12 projected land uses, including densities;
 25-13 (6) a current financial statement of the applicant;
 25-14 (7) according to the tax roll of the central appraisal
 25-15 district for each county in which the proposed service area is
 25-16 located, a list of the owners of each tract of land that is:
 25-17 (A) at least 50 acres; and
 25-18 (B) wholly or partially located within the
 25-19 proposed service area; and
 25-20 (8) any other item required by the utility commission.
 25-21 SECTION 2.45. Sections 13.245(b), (c), ~~(c-1)~~, (c-2), (c-3),
 25-22 and (e), Water Code, are amended to read as follows:
 25-23 (b) Except as provided by Subsections (c), (c-1), and (c-2),
 25-24 the utility commission may not grant to a retail public utility a
 25-25 certificate of public convenience and necessity for a service area
 25-26 within the boundaries or extraterritorial jurisdiction of a
 25-27 municipality without the consent of the municipality. The
 25-28 municipality may not unreasonably withhold the consent. As a
 25-29 condition of the consent, a municipality may require that all water
 25-30 and sewer facilities be designed and constructed in accordance with
 25-31 the municipality's standards for facilities.
 25-32 (c) If a municipality has not consented under Subsection (b)
 25-33 before the 180th day after the date the municipality receives the
 25-34 retail public utility's application, the utility commission shall
 25-35 grant the certificate of public convenience and necessity without
 25-36 the consent of the municipality if the utility commission finds
 25-37 that the municipality:
 25-38 (1) does not have the ability to provide service; or
 25-39 (2) has failed to make a good faith effort to provide
 25-40 service on reasonable terms and conditions.
 25-41 (c-1) If a municipality has not consented under Subsection
 25-42 (b) before the 180th day after the date a landowner or a retail
 25-43 public utility submits to the municipality a formal request for
 25-44 service according to the municipality's application requirements
 25-45 and standards for facilities on the same or substantially similar
 25-46 terms as provided by the retail public utility's application to the
 25-47 utility commission, including a capital improvements plan required
 25-48 by Section 13.244(d)(3) or a subdivision plat, the utility
 25-49 commission may grant the certificate of public convenience and
 25-50 necessity without the consent of the municipality if:
 25-51 (1) the utility commission makes the findings required
 25-52 by Subsection (c);
 25-53 (2) the municipality has not entered into a binding
 25-54 commitment to serve the area that is the subject of the retail
 25-55 public utility's application to the utility commission before the
 25-56 180th day after the date the formal request was made; and
 25-57 (3) the landowner or retail public utility that
 25-58 submitted the formal request has not unreasonably refused to:
 25-59 (A) comply with the municipality's service
 25-60 extension and development process; or
 25-61 (B) enter into a contract for water or sewer
 25-62 services with the municipality.
 25-63 (c-2) If a municipality refuses to provide service in the
 25-64 proposed service area, as evidenced by a formal vote of the
 25-65 municipality's governing body or an official notification from the
 25-66 municipality, the utility commission is not required to make the
 25-67 findings otherwise required by this section and may grant the
 25-68 certificate of public convenience and necessity to the retail
 25-69 public utility at any time after the date of the formal vote or

26-1 receipt of the official notification.

26-2 (c-3) The utility commission must include as a condition of
 26-3 a certificate of public convenience and necessity granted under
 26-4 Subsection (c-1) or (c-2) that all water and sewer facilities be
 26-5 designed and constructed in accordance with the municipality's
 26-6 standards for water and sewer facilities.

26-7 (e) If the utility commission makes a decision under
 26-8 Subsection (d) regarding the grant of a certificate of public
 26-9 convenience and necessity without the consent of the municipality,
 26-10 the municipality or the retail public utility may appeal the
 26-11 decision to the appropriate state district court. The court shall
 26-12 hear the petition within 120 days after the date the petition is
 26-13 filed. On final disposition, the court may award reasonable fees to
 26-14 the prevailing party.

26-15 SECTION 2.46. Sections 13.2451(b) and (c), Water Code, are
 26-16 amended to read as follows:

26-17 (b) The utility commission may not extend a municipality's
 26-18 certificate of public convenience and necessity beyond its
 26-19 extraterritorial jurisdiction if an owner of land that is located
 26-20 wholly or partly outside the extraterritorial jurisdiction elects
 26-21 to exclude some or all of the landowner's property within a proposed
 26-22 service area in accordance with Section 13.246(h). This subsection
 26-23 does not apply to a transfer of a certificate as approved by the
 26-24 utility commission.

26-25 (c) The utility commission, after notice to the
 26-26 municipality and an opportunity for a hearing, may decertify an
 26-27 area outside a municipality's extraterritorial jurisdiction if the
 26-28 municipality does not provide service to the area on or before the
 26-29 fifth anniversary of the date the certificate of public convenience
 26-30 and necessity was granted for the area. This subsection does not
 26-31 apply to a certificate of public convenience and necessity for an
 26-32 area:

26-33 (1) that was transferred to a municipality on approval
 26-34 of the utility commission; and

26-35 (2) in relation to which the municipality has spent
 26-36 public funds.

26-37 SECTION 2.47. Section 13.246, Water Code, is amended to
 26-38 read as follows:

26-39 Sec. 13.246. NOTICE AND HEARING; ISSUANCE OR REFUSAL;
 26-40 FACTORS CONSIDERED. (a) If an application for a certificate of
 26-41 public convenience and necessity or for an amendment to a
 26-42 certificate is filed, the utility commission shall cause notice of
 26-43 the application to be given to affected parties and to each county
 26-44 and groundwater conservation district that is wholly or partly
 26-45 included in the area proposed to be certified. If requested, the
 26-46 utility commission shall fix a time and place for a hearing and give
 26-47 notice of the hearing. Any person affected by the application may
 26-48 intervene at the hearing.

26-49 (a-1) Except as otherwise provided by this subsection, in
 26-50 addition to the notice required by Subsection (a), the utility
 26-51 commission shall require notice to be mailed to each owner of a
 26-52 tract of land that is at least 25 acres and is wholly or partially
 26-53 included in the area proposed to be certified. Notice required
 26-54 under this subsection must be mailed by first class mail to the
 26-55 owner of the tract according to the most current tax appraisal rolls
 26-56 of the applicable central appraisal district at the time the
 26-57 utility commission received the application for the certificate or
 26-58 amendment. Good faith efforts to comply with the requirements of
 26-59 this subsection shall be considered adequate notice to landowners.
 26-60 Notice under this subsection is not required for a matter filed with
 26-61 the utility commission or the commission under:

26-62 (1) Section 13.248 or 13.255; or

26-63 (2) Chapter 65.

26-64 (b) The utility commission may grant applications and issue
 26-65 certificates and amendments to certificates only if the utility
 26-66 commission finds that a certificate or amendment is necessary for
 26-67 the service, accommodation, convenience, or safety of the public.
 26-68 The utility commission may issue a certificate or amendment as
 26-69 requested, or refuse to issue it, or issue it for the construction

27-1 of only a portion of the contemplated system or facility or
 27-2 extension, or for the partial exercise only of the right or
 27-3 privilege and may impose special conditions necessary to ensure
 27-4 that continuous and adequate service is provided.

27-5 (c) Certificates of public convenience and necessity and
 27-6 amendments to certificates shall be granted by the utility
 27-7 commission on a nondiscriminatory basis after consideration by the
 27-8 utility commission of:

27-9 (1) the adequacy of service currently provided to the
 27-10 requested area;

27-11 (2) the need for additional service in the requested
 27-12 area, including whether any landowners, prospective landowners,
 27-13 tenants, or residents have requested service;

27-14 (3) the effect of the granting of a certificate or of
 27-15 an amendment on the recipient of the certificate or amendment, on
 27-16 the landowners in the area, and on any retail public utility of the
 27-17 same kind already serving the proximate area;

27-18 (4) the ability of the applicant to provide adequate
 27-19 service, including meeting the standards of the commission, taking
 27-20 into consideration the current and projected density and land use
 27-21 of the area;

27-22 (5) the feasibility of obtaining service from an
 27-23 adjacent retail public utility;

27-24 (6) the financial ability of the applicant to pay for
 27-25 the facilities necessary to provide continuous and adequate service
 27-26 and the financial stability of the applicant, including, if
 27-27 applicable, the adequacy of the applicant's debt-equity ratio;

27-28 (7) environmental integrity;

27-29 (8) the probable improvement of service or lowering of
 27-30 cost to consumers in that area resulting from the granting of the
 27-31 certificate or amendment; and

27-32 (9) the effect on the land to be included in the
 27-33 certificated area.

27-34 (d) The utility commission may require an applicant for a
 27-35 certificate or for an amendment to provide a bond or other financial
 27-36 assurance in a form and amount specified by the utility commission
 27-37 to ensure that continuous and adequate utility service is provided.

27-38 (e) Where applicable, in addition to the other factors in
 27-39 this section the utility commission shall consider the efforts of
 27-40 the applicant:

27-41 (1) to extend service to any economically distressed
 27-42 areas located within the service areas certificated to the
 27-43 applicant; and

27-44 (2) to enforce the rules adopted under Section 16.343.

27-45 (f) If two or more retail public utilities or water supply
 27-46 or sewer service corporations apply for a certificate of public
 27-47 convenience and necessity to provide water or sewer utility service
 27-48 to an uncertificated area located in an economically distressed
 27-49 area and otherwise meet the requirements for obtaining a new
 27-50 certificate, the utility commission shall grant the certificate to
 27-51 the retail public utility or water supply or sewer service
 27-52 corporation that is more capable financially, managerially, and
 27-53 technically of providing continuous and adequate service.

27-54 (g) In this section, "economically distressed area" has the
 27-55 meaning assigned by Section 15.001.

27-56 (h) Except as provided by Subsection (i), a landowner who
 27-57 owns a tract of land that is at least 25 acres and that is wholly or
 27-58 partially located within the proposed service area may elect to
 27-59 exclude some or all of the landowner's property from the proposed
 27-60 service area by providing written notice to the utility commission
 27-61 before the 30th day after the date the landowner receives notice of
 27-62 a new application for a certificate of public convenience and
 27-63 necessity or for an amendment to an existing certificate of public
 27-64 convenience and necessity. The landowner's election is effective
 27-65 without a further hearing or other process by the utility
 27-66 commission. If a landowner makes an election under this
 27-67 subsection, the application shall be modified so that the electing
 27-68 landowner's property is not included in the proposed service area.
 27-69 An applicant for a certificate of public convenience and necessity

28-1 that has land removed from its proposed certificated service area
 28-2 because of a landowner's election under this subsection may not be
 28-3 required to provide service to the removed land for any reason,
 28-4 including the violation of law or utility commission or commission
 28-5 rules by the water or sewer system of another person.

28-6 (i) A landowner is not entitled to make an election under
 28-7 Subsection (h) but is entitled to contest the inclusion of the
 28-8 landowner's property in the proposed service area at a hearing held
 28-9 by the utility commission regarding the application if the proposed
 28-10 service area is located within the boundaries or extraterritorial
 28-11 jurisdiction of a municipality with a population of more than
 28-12 500,000 and the municipality or a utility owned by the municipality
 28-13 is the applicant.

28-14 SECTION 2.48. Section 13.247(a), Water Code, is amended to
 28-15 read as follows:

28-16 (a) If an area is within the boundaries of a municipality,
 28-17 all retail public utilities certified or entitled to certification
 28-18 under this chapter to provide service or operate facilities in that
 28-19 area may continue and extend service in its area of public
 28-20 convenience and necessity within the area pursuant to the rights
 28-21 granted by its certificate and this chapter, unless the
 28-22 municipality exercises its power of eminent domain to acquire the
 28-23 property of the retail public utility under Subsection (d). Except
 28-24 as provided by Section 13.255, a municipally owned or operated
 28-25 utility may not provide retail water and sewer utility service
 28-26 within the area certificated to another retail public utility
 28-27 without first having obtained from the utility commission a
 28-28 certificate of public convenience and necessity that includes the
 28-29 areas to be served.

28-30 SECTION 2.49. Section 13.248, Water Code, is amended to
 28-31 read as follows:

28-32 Sec. 13.248. CONTRACTS VALID AND ENFORCEABLE. Contracts
 28-33 between retail public utilities designating areas to be served and
 28-34 customers to be served by those retail public utilities, when
 28-35 approved by the utility commission after public notice and hearing,
 28-36 are valid and enforceable and are incorporated into the appropriate
 28-37 areas of public convenience and necessity.

28-38 SECTION 2.50. Sections 13.250(b), (c), and (e), Water Code,
 28-39 are amended to read as follows:

28-40 (b) Unless the utility commission issues a certificate that
 28-41 neither the present nor future convenience and necessity will be
 28-42 adversely affected, the holder of a certificate or a person who
 28-43 possesses facilities used to provide utility service shall not
 28-44 discontinue, reduce, or impair service to a certified service area
 28-45 or part of a certified service area except for:

28-46 (1) nonpayment of charges for services provided by the
 28-47 certificate holder or a person who possesses facilities used to
 28-48 provide utility service;

28-49 (2) nonpayment of charges for sewer service provided
 28-50 by another retail public utility under an agreement between the
 28-51 retail public utility and the certificate holder or a person who
 28-52 possesses facilities used to provide utility service or under a
 28-53 utility commission-ordered arrangement between the two service
 28-54 providers;

28-55 (3) nonuse; or

28-56 (4) other similar reasons in the usual course of
 28-57 business.

28-58 (c) Any discontinuance, reduction, or impairment of
 28-59 service, whether with or without approval of the utility
 28-60 commission, shall be in conformity with and subject to conditions,
 28-61 restrictions, and limitations that the utility commission
 28-62 prescribes.

28-63 (e) Not later than the 48th hour after the hour in which a
 28-64 utility files a bankruptcy petition, the utility shall report this
 28-65 fact to the utility commission and the commission in writing.

28-66 SECTION 2.51. Section 13.2502(d), Water Code, is amended to
 28-67 read as follows:

28-68 (d) This section does not limit or extend the jurisdiction
 28-69 of the utility commission under Section 13.043(g).

29-1 SECTION 2.52. Section 13.251, Water Code, is amended to
29-2 read as follows:

29-3 Sec. 13.251. SALE, ASSIGNMENT, OR LEASE OF CERTIFICATE.
29-4 Except as provided by Section 13.255 [~~of this code~~], a utility or a
29-5 water supply or sewer service corporation may not sell, assign, or
29-6 lease a certificate of public convenience and necessity or any
29-7 right obtained under a certificate unless the utility commission
29-8 has determined that the purchaser, assignee, or lessee is capable
29-9 of rendering adequate and continuous service to every consumer
29-10 within the certified area, after considering the factors under
29-11 Section 13.246(c) [~~of this code~~]. The sale, assignment, or lease
29-12 shall be on the conditions prescribed by the utility commission.

29-13 SECTION 2.53. Section 13.252, Water Code, is amended to
29-14 read as follows:

29-15 Sec. 13.252. INTERFERENCE WITH OTHER RETAIL PUBLIC UTILITY.
29-16 If a retail public utility in constructing or extending a line,
29-17 plant, or system interferes or attempts to interfere with the
29-18 operation of a line, plant, or system of any other retail public
29-19 utility, or furnishes, makes available, renders, or extends retail
29-20 water or sewer utility service to any portion of the service area of
29-21 another retail public utility that has been granted or is not
29-22 required to possess a certificate of public convenience and
29-23 necessity, the utility commission may issue an order prohibiting
29-24 the construction, extension, or provision of service or prescribing
29-25 terms and conditions for locating the line, plant, or system
29-26 affected or for the provision of the service.

29-27 SECTION 2.54. Section 13.253, Water Code, is amended to
29-28 read as follows:

29-29 Sec. 13.253. IMPROVEMENTS IN SERVICE; INTERCONNECTING
29-30 SERVICE. (a) After notice and hearing, the utility commission or
29-31 the commission may:

29-32 (1) order any retail public utility that is required
29-33 by law to possess a certificate of public convenience and necessity
29-34 or any retail public utility that possesses a certificate of public
29-35 convenience and necessity and is located in an affected county as
29-36 defined in Section 16.341 to:

29-37 (A) provide specified improvements in its
29-38 service in a defined area if service in that area is inadequate or
29-39 is substantially inferior to service in a comparable area and it is
29-40 reasonable to require the retail public utility to provide the
29-41 improved service; or

29-42 (B) develop, implement, and follow financial,
29-43 managerial, and technical practices that are acceptable to the
29-44 utility commission to ensure that continuous and adequate service
29-45 is provided to any areas currently certificated to the retail
29-46 public utility if the retail public utility has not provided
29-47 continuous and adequate service to any of those areas and, for a
29-48 utility, to provide financial assurance of the utility's ability to
29-49 operate the system in accordance with applicable laws and rules, in
29-50 the form of a bond or other financial assurance in a form and amount
29-51 specified by the utility commission;

29-52 (2) order two or more public utilities or water supply
29-53 or sewer service corporations to establish specified facilities for
29-54 interconnecting service;

29-55 (3) order a public utility or water supply or sewer
29-56 service corporation that has not demonstrated that it can provide
29-57 continuous and adequate service from its drinking water source or
29-58 sewer treatment facility to obtain service sufficient to meet its
29-59 obligation to provide continuous and adequate service on at least a
29-60 wholesale basis from another consenting utility service provider;
29-61 or

29-62 (4) issue an emergency order, with or without a
29-63 hearing, under Section 13.041.

29-64 (b) If the utility commission has reason to believe that
29-65 improvements and repairs to a water or sewer service system are
29-66 necessary to enable a retail public utility to provide continuous
29-67 and adequate service in any portion of its service area and the
29-68 retail public utility has provided financial assurance under
29-69 Section 341.0355, Health and Safety Code, or under this chapter,

30-1 the utility commission, after providing to the retail public
 30-2 utility notice and an opportunity to be heard by the commissioners
 30-3 at a [~~commission~~] meeting of the utility commission, may
 30-4 immediately order specified improvements and repairs to the water
 30-5 or sewer system, the costs of which may be paid by the bond or other
 30-6 financial assurance in an amount determined by the utility
 30-7 commission not to exceed the amount of the bond or financial
 30-8 assurance. The order requiring the improvements may be an
 30-9 emergency order if it is issued after the retail public utility has
 30-10 had an opportunity to be heard [~~by the commissioners~~] at a
 30-11 [~~commission~~] meeting of the utility commission. After notice and
 30-12 hearing, the utility commission may require a retail public utility
 30-13 to obligate additional money to replace the financial assurance
 30-14 used for the improvements.

30-15 SECTION 2.55. Sections 13.254(a), (a-1), (a-2), (a-3),
 30-16 (a-4), (a-6), (a-8), (b), (c), (d), (e), (f), (g), (g-1), and (h),
 30-17 Water Code, are amended to read as follows:

30-18 (a) The utility commission at any time after notice and
 30-19 hearing may revoke or amend any certificate of public convenience
 30-20 and necessity with the written consent of the certificate holder or
 30-21 if the utility commission [~~it~~] finds that:

30-22 (1) the certificate holder has never provided, is no
 30-23 longer providing, is incapable of providing, or has failed to
 30-24 provide continuous and adequate service in the area, or part of the
 30-25 area, covered by the certificate;

30-26 (2) in an affected county as defined in Section
 30-27 16.341, the cost of providing service by the certificate holder is
 30-28 so prohibitively expensive as to constitute denial of service,
 30-29 provided that, for commercial developments or for residential
 30-30 developments started after September 1, 1997, in an affected county
 30-31 as defined in Section 16.341, the fact that the cost of obtaining
 30-32 service from the currently certificated retail public utility makes
 30-33 the development economically unfeasible does not render such cost
 30-34 prohibitively expensive in the absence of other relevant factors;

30-35 (3) the certificate holder has agreed in writing to
 30-36 allow another retail public utility to provide service within its
 30-37 service area, except for an interim period, without amending its
 30-38 certificate; or

30-39 (4) the certificate holder has failed to file a cease
 30-40 and desist action pursuant to Section 13.252 within 180 days of the
 30-41 date that it became aware that another retail public utility was
 30-42 providing service within its service area, unless the certificate
 30-43 holder demonstrates good cause for its failure to file such action
 30-44 within the 180 days.

30-45 (a-1) As an alternative to decertification under Subsection
 30-46 (a), the owner of a tract of land that is at least 50 acres and that
 30-47 is not in a platted subdivision actually receiving water or sewer
 30-48 service may petition the utility commission under this subsection
 30-49 for expedited release of the area from a certificate of public
 30-50 convenience and necessity so that the area may receive service from
 30-51 another retail public utility. The fact that a certificate holder
 30-52 is a borrower under a federal loan program is not a bar to a request
 30-53 under this subsection for the release of the petitioner's land and
 30-54 the receipt of services from an alternative provider. On the day
 30-55 the petitioner submits the petition to the utility commission, the
 30-56 petitioner shall send, via certified mail, a copy of the petition to
 30-57 the certificate holder, who may submit information to the utility
 30-58 commission to controvert information submitted by the petitioner.
 30-59 The petitioner must demonstrate that:

30-60 (1) a written request for service, other than a
 30-61 request for standard residential or commercial service, has been
 30-62 submitted to the certificate holder, identifying:

30-63 (A) the area for which service is sought;

30-64 (B) the timeframe within which service is needed
 30-65 for current and projected service demands in the area;

30-66 (C) the level and manner of service needed for
 30-67 current and projected service demands in the area;

30-68 (D) the approximate cost for the alternative
 30-69 provider to provide the service at the same level and manner that is

31-1 requested from the certificate holder;

31-2 (E) the flow and pressure requirements and

31-3 specific infrastructure needs, including line size and system

31-4 capacity for the required level of fire protection requested; and

31-5 (F) any additional information requested by the

31-6 certificate holder that is reasonably related to determination of

31-7 the capacity or cost for providing the service;

31-8 (2) the certificate holder has been allowed at least

31-9 90 calendar days to review and respond to the written request and

31-10 the information it contains;

31-11 (3) the certificate holder:

31-12 (A) has refused to provide the service;

31-13 (B) is not capable of providing the service on a

31-14 continuous and adequate basis within the timeframe, at the level,

31-15 at the approximate cost that the alternative provider is capable of

31-16 providing for a comparable level of service, or in the manner

31-17 reasonably needed or requested by current and projected service

31-18 demands in the area; or

31-19 (C) conditions the provision of service on the

31-20 payment of costs not properly allocable directly to the

31-21 petitioner's service request, as determined by the utility

31-22 commission; and

31-23 (4) the alternate retail public utility from which the

31-24 petitioner will be requesting service possesses the financial,

31-25 managerial, and technical capability to provide continuous and

31-26 adequate service within the timeframe, at the level, at the cost,

31-27 and in the manner reasonably needed or requested by current and

31-28 projected service demands in the area.

31-29 (a-2) A landowner is not entitled to make the election

31-30 described in Subsection (a-1) or (a-5) but is entitled to contest

31-31 under Subsection (a) the involuntary certification of its property

31-32 in a hearing held by the utility commission if the landowner's

31-33 property is located:

31-34 (1) within the boundaries of any municipality or the

31-35 extraterritorial jurisdiction of a municipality with a population

31-36 of more than 500,000 and the municipality or retail public utility

31-37 owned by the municipality is the holder of the certificate; or

31-38 (2) in a platted subdivision actually receiving water

31-39 or sewer service.

31-40 (a-3) Within 60 calendar days from the date the utility

31-41 commission determines the petition filed pursuant to Subsection

31-42 (a-1) to be administratively complete, the utility commission shall

31-43 grant the petition unless the utility commission makes an express

31-44 finding that the petitioner failed to satisfy the elements required

31-45 in Subsection (a-1) and supports its finding with separate findings

31-46 and conclusions for each element based solely on the information

31-47 provided by the petitioner and the certificate holder. The utility

31-48 commission may grant or deny a petition subject to terms and

31-49 conditions specifically related to the service request of the

31-50 petitioner and all relevant information submitted by the petitioner

31-51 and the certificate holder. In addition, the utility commission

31-52 may require an award of compensation as otherwise provided by this

31-53 section.

31-54 (a-4) Chapter 2001, Government Code, does not apply to any

31-55 petition filed under Subsection (a-1). The decision of the utility

31-56 commission on the petition is final after any reconsideration

31-57 authorized by the utility commission's rules and may not be

31-58 appealed.

31-59 (a-6) The utility commission shall grant a petition

31-60 received under Subsection (a-5) not later than the 60th day after

31-61 the date the landowner files the petition. The utility commission

31-62 may not deny a petition received under Subsection (a-5) based on the

31-63 fact that a certificate holder is a borrower under a federal loan

31-64 program. The utility commission may require an award of

31-65 compensation by the petitioner to a decertified retail public

31-66 utility that is the subject of a petition filed under Subsection

31-67 (a-5) as otherwise provided by this section.

31-68 (a-8) If a certificate holder has never made service

31-69 available through planning, design, construction of facilities, or

32-1 contractual obligations to serve the area a petitioner seeks to
32-2 have released under Subsection (a-1), the utility commission is not
32-3 required to find that the proposed alternative provider is capable
32-4 of providing better service than the certificate holder, but only
32-5 that the proposed alternative provider is capable of providing the
32-6 requested service.

32-7 (b) Upon written request from the certificate holder, the
32-8 utility commission [~~executive director~~] may cancel the certificate
32-9 of a utility or water supply corporation authorized by rule to
32-10 operate without a certificate of public convenience and necessity
32-11 under Section 13.242(c).

32-12 (c) If the certificate of any retail public utility is
32-13 revoked or amended, the utility commission may require one or more
32-14 retail public utilities with their consent to provide service in
32-15 the area in question. The order of the utility commission shall not
32-16 be effective to transfer property.

32-17 (d) A retail public utility may not in any way render retail
32-18 water or sewer service directly or indirectly to the public in an
32-19 area that has been decertified under this section without providing
32-20 compensation for any property that the utility commission
32-21 determines is rendered useless or valueless to the decertified
32-22 retail public utility as a result of the decertification.

32-23 (e) The determination of the monetary amount of
32-24 compensation, if any, shall be determined at the time another
32-25 retail public utility seeks to provide service in the previously
32-26 decertified area and before service is actually provided. The
32-27 utility commission shall ensure that the monetary amount of
32-28 compensation is determined not later than the 90th calendar day
32-29 after the date on which a retail public utility notifies the utility
32-30 commission of its intent to provide service to the decertified
32-31 area.

32-32 (f) The monetary amount shall be determined by a qualified
32-33 individual or firm serving as independent appraiser agreed upon by
32-34 the decertified retail public utility and the retail public utility
32-35 seeking to serve the area. The determination of compensation by the
32-36 independent appraiser shall be binding on the utility commission.
32-37 The costs of the independent appraiser shall be borne by the retail
32-38 public utility seeking to serve the area.

32-39 (g) For the purpose of implementing this section, the value
32-40 of real property owned and utilized by the retail public utility for
32-41 its facilities shall be determined according to the standards set
32-42 forth in Chapter 21, Property Code, governing actions in eminent
32-43 domain and the value of personal property shall be determined
32-44 according to the factors in this subsection. The factors ensuring
32-45 that the compensation to a retail public utility is just and
32-46 adequate shall include: the amount of the retail public utility's
32-47 debt allocable for service to the area in question; the value of the
32-48 service facilities of the retail public utility located within the
32-49 area in question; the amount of any expenditures for planning,
32-50 design, or construction of service facilities that are allocable to
32-51 service to the area in question; the amount of the retail public
32-52 utility's contractual obligations allocable to the area in
32-53 question; any demonstrated impairment of service or increase of
32-54 cost to consumers of the retail public utility remaining after the
32-55 decertification; the impact on future revenues lost from existing
32-56 customers; necessary and reasonable legal expenses and
32-57 professional fees; and other relevant factors. The utility
32-58 commission shall adopt rules governing the evaluation of these
32-59 factors.

32-60 (g-1) If the retail public utilities cannot agree on an
32-61 independent appraiser within 10 calendar days after the date on
32-62 which the retail public utility notifies the utility commission of
32-63 its intent to provide service to the decertified area, each retail
32-64 public utility shall engage its own appraiser at its own expense,
32-65 and each appraisal shall be submitted to the utility commission
32-66 within 60 calendar days. After receiving the appraisals, the
32-67 utility commission shall appoint a third appraiser who shall make a
32-68 determination of the compensation within 30 days. The
32-69 determination may not be less than the lower appraisal or more than

33-1 the higher appraisal. Each retail public utility shall pay half the
33-2 cost of the third appraisal.

33-3 (h) A certificate holder that has land removed from its
33-4 certificated service area in accordance with this section may not
33-5 be required, after the land is removed, to provide service to the
33-6 removed land for any reason, including the violation of law or
33-7 utility commission or commission rules by a water or sewer system of
33-8 another person.

33-9 SECTION 2.56. Sections 13.255(a), (b), (c), (d), (e),
33-10 (g-1), (k), (l), and (m), Water Code, are amended to read as
33-11 follows:

33-12 (a) In the event that an area is incorporated or annexed by a
33-13 municipality, either before or after the effective date of this
33-14 section, the municipality and a retail public utility that provides
33-15 water or sewer service to all or part of the area pursuant to a
33-16 certificate of convenience and necessity may agree in writing that
33-17 all or part of the area may be served by a municipally owned
33-18 utility, by a franchised utility, or by the retail public utility.
33-19 In this section, the phrase "franchised utility" shall mean a
33-20 retail public utility that has been granted a franchise by a
33-21 municipality to provide water or sewer service inside municipal
33-22 boundaries. The agreement may provide for single or dual
33-23 certification of all or part of the area, for the purchase of
33-24 facilities or property, and for such other or additional terms that
33-25 the parties may agree on. If a franchised utility is to serve the
33-26 area, the franchised utility shall also be a party to the agreement.
33-27 The executed agreement shall be filed with the utility commission,
33-28 and the utility commission, on receipt of the agreement, shall
33-29 incorporate the terms of the agreement into the respective
33-30 certificates of convenience and necessity of the parties to the
33-31 agreement.

33-32 (b) If an agreement is not executed within 180 days after
33-33 the municipality, in writing, notifies the retail public utility of
33-34 its intent to provide service to the incorporated or annexed area,
33-35 and if the municipality desires and intends to provide retail
33-36 utility service to the area, the municipality, prior to providing
33-37 service to the area, shall file an application with the utility
33-38 commission to grant single certification to the municipally owned
33-39 water or sewer utility or to a franchised utility. If an
33-40 application for single certification is filed, the utility
33-41 commission shall fix a time and place for a hearing and give notice
33-42 of the hearing to the municipality and franchised utility, if any,
33-43 and notice of the application and hearing to the retail public
33-44 utility.

33-45 (c) The utility commission shall grant single certification
33-46 to the municipality. The utility commission shall also determine
33-47 whether single certification as requested by the municipality would
33-48 result in property of a retail public utility being rendered
33-49 useless or valueless to the retail public utility, and shall
33-50 determine in its order the monetary amount that is adequate and just
33-51 to compensate the retail public utility for such property. If the
33-52 municipality in its application has requested the transfer of
33-53 specified property of the retail public utility to the municipality
33-54 or to a franchised utility, the utility commission shall also
33-55 determine in its order the adequate and just compensation to be paid
33-56 for such property pursuant to the provisions of this section,
33-57 including an award for damages to property remaining in the
33-58 ownership of the retail public utility after single certification.
33-59 The order of the utility commission shall not be effective to
33-60 transfer property. A transfer of property may only be obtained
33-61 under this section by a court judgment rendered pursuant to
33-62 Subsection (d) or (e) [~~of this section~~]. The grant of single
33-63 certification by the utility commission shall go into effect on the
33-64 date the municipality or franchised utility, as the case may be,
33-65 pays adequate and just compensation pursuant to court order, or
33-66 pays an amount into the registry of the court or to the retail
33-67 public utility under Subsection (f). If the court judgment
33-68 provides that the retail public utility is not entitled to any
33-69 compensation, the grant of single certification shall go into

34-1 effect when the court judgment becomes final. The municipality or
 34-2 franchised utility must provide to each customer of the retail
 34-3 public utility being acquired an individual written notice within
 34-4 60 days after the effective date for the transfer specified in the
 34-5 court judgment. The notice must clearly advise the customer of the
 34-6 identity of the new service provider, the reason for the transfer,
 34-7 the rates to be charged by the new service provider, and the
 34-8 effective date of those rates.

34-9 (d) In the event the final order of the utility commission
 34-10 is not appealed within 30 days, the municipality may request the
 34-11 district court of Travis County to enter a judgment consistent with
 34-12 the order of the utility commission. In such event, the court shall
 34-13 render a judgment that:

34-14 (1) transfers to the municipally owned utility or
 34-15 franchised utility title to property to be transferred to the
 34-16 municipally owned utility or franchised utility as delineated by
 34-17 the utility commission's final order and property determined by the
 34-18 utility commission to be rendered useless or valueless by the
 34-19 granting of single certification; and

34-20 (2) orders payment to the retail public utility of
 34-21 adequate and just compensation for the property as determined by
 34-22 the utility commission in its final order.

34-23 (e) Any party that is aggrieved by a final order of the
 34-24 utility commission under this section may file an appeal with the
 34-25 district court of Travis County within 30 days after the order
 34-26 becomes final. The hearing in such an appeal before the district
 34-27 court shall be by trial de novo on all issues. After the hearing, if
 34-28 the court determines that the municipally owned utility or
 34-29 franchised utility is entitled to single certification under the
 34-30 provisions of this section, the court shall enter a judgment that:

34-31 (1) transfers to the municipally owned utility or
 34-32 franchised utility title to property requested by the municipality
 34-33 to be transferred to the municipally owned utility or franchised
 34-34 utility and located within the singly certificated area and
 34-35 property determined by the court or jury to be rendered useless or
 34-36 valueless by the granting of single certification; and

34-37 (2) orders payment in accordance with Subsection (g)
 34-38 [~~of this section~~] to the retail public utility of adequate and just
 34-39 compensation for the property transferred and for the property
 34-40 damaged as determined by the court or jury.

34-41 (g-1) The utility commission shall adopt rules governing
 34-42 the evaluation of the factors to be considered in determining the
 34-43 monetary compensation under Subsection (g). The utility commission
 34-44 by rule shall adopt procedures to ensure that the total
 34-45 compensation to be paid to a retail public utility under Subsection
 34-46 (g) is determined not later than the 90th calendar day after the
 34-47 date on which the utility commission determines that the
 34-48 municipality's application is administratively complete.

34-49 (k) The following conditions apply when a municipality or
 34-50 franchised utility makes an application to acquire the service area
 34-51 or facilities of a retail public utility described in Subsection
 34-52 (j)(2):

34-53 (1) the utility commission or court must determine
 34-54 that the service provided by the retail public utility is
 34-55 substandard or its rates are unreasonable in view of the reasonable
 34-56 expenses of the utility;

34-57 (2) if the municipality abandons its application, the
 34-58 court or the utility commission is authorized to award to the retail
 34-59 public utility its reasonable expenses related to the proceeding
 34-60 hereunder, including attorney fees; and

34-61 (3) unless otherwise agreed by the retail public
 34-62 utility, the municipality must take the entire utility property of
 34-63 the retail public utility in a proceeding hereunder.

34-64 (l) For an area incorporated by a municipality, the
 34-65 compensation provided under Subsection (g) shall be determined by a
 34-66 qualified individual or firm to serve as independent appraiser, who
 34-67 shall be selected by the affected retail public utility, and the
 34-68 costs of the appraiser shall be paid by the municipality. For an
 34-69 area annexed by a municipality, the compensation provided under

35-1 Subsection (g) shall be determined by a qualified individual or
 35-2 firm to which the municipality and the retail public utility agree
 35-3 to serve as independent appraiser. If the retail public utility and
 35-4 the municipality are unable to agree on a single individual or firm
 35-5 to serve as the independent appraiser before the 11th day after the
 35-6 date the retail public utility or municipality notifies the other
 35-7 party of the impasse, the retail public utility and municipality
 35-8 each shall appoint a qualified individual or firm to serve as
 35-9 independent appraiser. On or before the 10th business day after the
 35-10 date of their appointment, the independent appraisers shall meet to
 35-11 reach an agreed determination of the amount of compensation. If the
 35-12 appraisers are unable to agree on a determination before the 16th
 35-13 business day after the date of their first meeting under this
 35-14 subsection, the retail public utility or municipality may petition
 35-15 the utility commission or a person the utility commission
 35-16 designates for the purpose to appoint a third qualified independent
 35-17 appraiser to reconcile the appraisals of the two originally
 35-18 appointed appraisers. The determination of the third appraiser may
 35-19 not be less than the lesser or more than the greater of the two
 35-20 original appraisals. The costs of the independent appraisers for
 35-21 an annexed area shall be shared equally by the retail public utility
 35-22 and the municipality. The determination of compensation under this
 35-23 subsection is binding on the utility commission.

35-24 (m) The utility commission shall deny an application for
 35-25 single certification by a municipality that fails to demonstrate
 35-26 compliance with the commission's minimum requirements for public
 35-27 drinking water systems.

35-28 SECTION 2.57. Section 13.2551, Water Code, is amended to
 35-29 read as follows:

35-30 Sec. 13.2551. COMPLETION OF DECERTIFICATION. (a) As a
 35-31 condition to decertification or single certification under Section
 35-32 13.254 or 13.255, and on request by an affected retail public
 35-33 utility, the utility commission may order:

35-34 (1) the retail public utility seeking to provide
 35-35 service to a decertified area to serve the entire service area of
 35-36 the retail public utility that is being decertified; and

35-37 (2) the transfer of the entire certificate of public
 35-38 convenience and necessity of a partially decertified retail public
 35-39 utility to the retail public utility seeking to provide service to
 35-40 the decertified area.

35-41 (b) The utility commission shall order service to the entire
 35-42 area under Subsection (a) if the utility commission finds that the
 35-43 decertified retail public utility will be unable to provide
 35-44 continuous and adequate service at an affordable cost to the
 35-45 remaining customers.

35-46 (c) The utility commission shall require the retail public
 35-47 utility seeking to provide service to the decertified area to
 35-48 provide continuous and adequate service to the remaining customers
 35-49 at a cost comparable to the cost of that service to its other
 35-50 customers and shall establish the terms under which the service
 35-51 must be provided. The terms may include:

35-52 (1) transferring debt and other contract obligations;

35-53 (2) transferring real and personal property;

35-54 (3) establishing interim service rates for affected
 35-55 customers during specified times; and

35-56 (4) other provisions necessary for the just and
 35-57 reasonable allocation of assets and liabilities.

35-58 (d) The retail public utility seeking decertification shall
 35-59 not charge the affected customers any transfer fee or other fee to
 35-60 obtain service other than the retail public utility's usual and
 35-61 customary rates for monthly service or the interim rates set by the
 35-62 utility commission, if applicable.

35-63 (e) The utility commission shall not order compensation to
 35-64 the decertified retail utility if service to the entire service
 35-65 area is ordered under this section.

35-66 SECTION 2.58. Sections 13.257(e), (i), (r), and (s), Water
 35-67 Code, are amended to read as follows:

35-68 (e) The notice must be given to the prospective purchaser
 35-69 before the execution of a binding contract of purchase and sale.

36-1 The notice may be given separately or as an addendum to or paragraph
 36-2 of the contract. If the seller fails to provide the notice required
 36-3 by this section, the purchaser may terminate the contract. If the
 36-4 seller provides the notice at or before the closing of the purchase
 36-5 and sale contract and the purchaser elects to close even though the
 36-6 notice was not timely provided before the execution of the
 36-7 contract, it is conclusively presumed that the purchaser has waived
 36-8 all rights to terminate the contract and recover damages or pursue
 36-9 other remedies or rights under this section. Notwithstanding any
 36-10 provision of this section to the contrary, a seller, title
 36-11 insurance company, real estate broker, or examining attorney, or an
 36-12 agent, representative, or person acting on behalf of the seller,
 36-13 company, broker, or attorney, is not liable for damages under
 36-14 Subsection (m) or (n) or liable for any other damages to any person
 36-15 for:

36-16 (1) failing to provide the notice required by this
 36-17 section to a purchaser before the execution of a binding contract of
 36-18 purchase and sale or at or before the closing of the purchase and
 36-19 sale contract if:

36-20 (A) the utility service provider did not file the
 36-21 map of the certificated service area in the real property records of
 36-22 the county in which the service area is located and with the utility
 36-23 commission depicting the boundaries of the service area of the
 36-24 utility service provider as shown in the real property records of
 36-25 the county in which the service area is located; and

36-26 (B) the utility commission did not maintain an
 36-27 accurate map of the certificated service area of the utility
 36-28 service provider as required by this chapter; or

36-29 (2) unintentionally providing a notice required by
 36-30 this section that is incorrect under the circumstances before the
 36-31 execution of a binding contract of purchase and sale or at or before
 36-32 the closing of the purchase and sale contract.

36-33 (i) If the notice is given at closing as provided by
 36-34 Subsection (g), a purchaser, or the purchaser's heirs, successors,
 36-35 or assigns, may not maintain an action for damages or maintain an
 36-36 action against a seller, title insurance company, real estate
 36-37 broker, or lienholder, or any agent, representative, or person
 36-38 acting on behalf of the seller, company, broker, or lienholder, by
 36-39 reason of the seller's use of the information filed with the utility
 36-40 commission by the utility service provider or the seller's use of
 36-41 the map of the certificated service area of the utility service
 36-42 provider filed in the real property records to determine whether
 36-43 the property to be purchased is within the certificated service
 36-44 area of the utility service provider. An action may not be
 36-45 maintained against a title insurance company for the failure to
 36-46 disclose that the described real property is included within the
 36-47 certificated service area of a utility service provider if the
 36-48 utility service provider did not file in the real property records
 36-49 or with the utility commission the map of the certificated service
 36-50 area.

36-51 (r) A utility service provider shall:

36-52 (1) record in the real property records of each county
 36-53 in which the service area or a portion of the service area is
 36-54 located a certified copy of the map of the certificate of public
 36-55 convenience and necessity and of any amendment to the certificate
 36-56 as contained in the utility commission's records, and a boundary
 36-57 description of the service area by:

36-58 (A) a metes and bounds survey certified by a
 36-59 licensed state land surveyor or a registered professional land
 36-60 surveyor;

36-61 (B) the Texas State Plane Coordinate System;

36-62 (C) verifiable landmarks, including a road,
 36-63 creek, or railroad line; or

36-64 (D) if a recorded plat of the area exists, lot and
 36-65 block number; and

36-66 (2) submit to the utility commission [~~executive~~
 36-67 ~~director~~] evidence of the recording.

36-68 (s) Each county shall accept and file in its real property
 36-69 records a utility service provider's map presented to the county

37-1 clerk under this section if the map meets filing requirements, does
 37-2 not exceed 11 inches by 17 inches in size, and is accompanied by the
 37-3 appropriate fee. The recording required by this section must be
 37-4 completed not later than the 31st day after the date a utility
 37-5 service provider receives a final order from the utility commission
 37-6 granting an application for a new certificate or for an amendment to
 37-7 a certificate that results in a change in the utility service
 37-8 provider's service area.

37-9 SECTION 2.59. Sections 13.301(a), (b), (c), (d), (e), (f),
 37-10 and (g), Water Code, are amended to read as follows:

37-11 (a) A utility or a water supply or sewer service
 37-12 corporation, on or before the 120th day before the effective date of
 37-13 a sale, acquisition, lease, or rental of a water or sewer system
 37-14 that is required by law to possess a certificate of public
 37-15 convenience and necessity or the effective date of a merger or
 37-16 consolidation with such a utility or water supply or sewer service
 37-17 corporation, shall:

37-18 (1) file a written application with the utility
 37-19 commission; and

37-20 (2) unless public notice is waived by the utility
 37-21 commission [~~executive director~~] for good cause shown, give public
 37-22 notice of the action.

37-23 (b) The utility commission may require that the person
 37-24 purchasing or acquiring the water or sewer system demonstrate
 37-25 adequate financial, managerial, and technical capability for
 37-26 providing continuous and adequate service to the requested area and
 37-27 any areas currently certificated to the person.

37-28 (c) If the person purchasing or acquiring the water or sewer
 37-29 system cannot demonstrate adequate financial capability, the
 37-30 utility commission may require that the person provide a bond or
 37-31 other financial assurance in a form and amount specified by the
 37-32 utility commission to ensure continuous and adequate utility
 37-33 service is provided.

37-34 (d) The utility commission shall, with or without a public
 37-35 hearing, investigate the sale, acquisition, lease, or rental to
 37-36 determine whether the transaction will serve the public interest.

37-37 (e) Before the expiration of the 120-day notification
 37-38 period, the utility commission [~~executive director~~] shall notify
 37-39 all known parties to the transaction and the Office of Public
 37-40 Utility Counsel whether [~~of~~] the utility commission will [~~executive~~
 37-41 ~~director's decision whether to request that the commission~~] hold a
 37-42 public hearing to determine if the transaction will serve the
 37-43 public interest. The utility commission may hold [~~executive~~
 37-44 ~~director may request~~] a hearing if:

37-45 (1) the application filed with the utility commission
 37-46 or the public notice was improper;

37-47 (2) the person purchasing or acquiring the water or
 37-48 sewer system has not demonstrated adequate financial, managerial,
 37-49 and technical capability for providing continuous and adequate
 37-50 service to the service area being acquired and to any areas
 37-51 currently certificated to the person;

37-52 (3) the person or an affiliated interest of the person
 37-53 purchasing or acquiring the water or sewer system has a history of:

37-54 (A) noncompliance with the requirements of the
 37-55 utility commission, the commission, or the [~~Texas~~] Department of
 37-56 State Health Services; or

37-57 (B) continuing mismanagement or misuse of
 37-58 revenues as a utility service provider;

37-59 (4) the person purchasing or acquiring the water or
 37-60 sewer system cannot demonstrate the financial ability to provide
 37-61 the necessary capital investment to ensure the provision of
 37-62 continuous and adequate service to the customers of the water or
 37-63 sewer system; or

37-64 (5) there are concerns that the transaction may not
 37-65 serve the public interest, after the application of the
 37-66 considerations provided by Section 13.246(c) for determining
 37-67 whether to grant a certificate of convenience and necessity.

37-68 (f) Unless the utility commission holds [~~executive director~~
 37-69 ~~requests that~~] a public hearing [~~be held~~], the sale, acquisition,

38-1 lease, or rental may be completed as proposed:

38-2 (1) at the end of the 120-day period; or

38-3 (2) at any time after the utility commission
38-4 [~~executive director~~] notifies the utility or water supply or sewer
38-5 service corporation that a hearing will not be held [~~requested~~].

38-6 (g) If the utility commission decides to hold a hearing [~~is~~
38-7 ~~requested~~] or if the utility or water supply or sewer service
38-8 corporation fails to make the application as required or to provide
38-9 public notice, the sale, acquisition, lease, or rental may not be
38-10 completed unless the utility commission determines that the
38-11 proposed transaction serves the public interest.

38-12 SECTION 2.60. Section 13.302, Water Code, is amended to
38-13 read as follows:

38-14 Sec. 13.302. PURCHASE OF VOTING STOCK IN ANOTHER PUBLIC
38-15 UTILITY: REPORT. (a) A utility may not purchase voting stock in
38-16 another utility doing business in this state and a person may not
38-17 acquire a controlling interest in a utility doing business in this
38-18 state unless the person or utility files a written application with
38-19 the utility commission not later than the 61st day before the date
38-20 on which the transaction is to occur.

38-21 (b) The utility commission may require that a person
38-22 acquiring a controlling interest in a utility demonstrate adequate
38-23 financial, managerial, and technical capability for providing
38-24 continuous and adequate service to the requested area and any areas
38-25 currently certificated to the person.

38-26 (c) If the person acquiring a controlling interest cannot
38-27 demonstrate adequate financial capability, the utility commission
38-28 may require that the person provide a bond or other financial
38-29 assurance in a form and amount specified by the utility commission
38-30 to ensure continuous and adequate utility service is provided.

38-31 (d) The utility commission [~~executive director~~] may
38-32 [~~request that the commission~~] hold a public hearing on the
38-33 transaction if the utility commission [~~executive director~~]
38-34 believes that a criterion prescribed by Section 13.301(e) applies.

38-35 (e) Unless the utility commission holds [~~executive director~~
38-36 ~~requests that~~] a public hearing [~~be held~~], the purchase or
38-37 acquisition may be completed as proposed:

38-38 (1) at the end of the 60-day period; or

38-39 (2) at any time after the utility commission
38-40 [~~executive director~~] notifies the person or utility that a hearing
38-41 will not be held [~~requested~~].

38-42 (f) If the utility commission decides to hold a hearing [~~is~~
38-43 ~~requested~~] or if the person or utility fails to make the application
38-44 to the utility commission as required, the purchase or acquisition
38-45 may not be completed unless the utility commission determines that
38-46 the proposed transaction serves the public interest. A purchase or
38-47 acquisition that is not completed in accordance with the provisions
38-48 of this section is void.

38-49 SECTION 2.61. Section 13.303, Water Code, is amended to
38-50 read as follows:

38-51 Sec. 13.303. LOANS TO STOCKHOLDERS: REPORT. A utility may
38-52 not loan money, stocks, bonds, notes, or other evidences of
38-53 indebtedness to any corporation or person owning or holding
38-54 directly or indirectly any stock of the utility unless the utility
38-55 reports the transaction to the utility commission within 60 days
38-56 after the date of the transaction.

38-57 SECTION 2.62. Section 13.304, Water Code, is amended to
38-58 read as follows:

38-59 Sec. 13.304. FORECLOSURE REPORT. (a) A utility that
38-60 receives notice that all or a portion of the utility's facilities or
38-61 property used to provide utility service are being posted for
38-62 foreclosure shall notify the utility commission and the commission
38-63 in writing of that fact not later than the 10th day after the date on
38-64 which the utility receives the notice.

38-65 (b) A financial institution that forecloses on a utility or
38-66 on any part of the utility's facilities or property that are used to
38-67 provide utility service is not required to provide the 120-day
38-68 notice prescribed by Section 13.301, but shall provide written
38-69 notice to the utility commission and the commission before the 30th

39-1 day preceding the date on which the foreclosure is completed.

39-2 (c) The financial institution may operate the utility for an

39-3 interim period prescribed by utility commission rule before

39-4 transferring or otherwise obtaining a certificate of convenience

39-5 and necessity. A financial institution that operates a utility

39-6 during an interim period under this subsection is subject to each

39-7 utility commission rule to which the utility was subject and in the

39-8 same manner.

39-9 SECTION 2.63. Section 13.341, Water Code, is amended to

39-10 read as follows:

39-11 Sec. 13.341. JURISDICTION OVER AFFILIATED INTERESTS. The

39-12 utility commission has jurisdiction over affiliated interests

39-13 having transactions with utilities under the jurisdiction of the

39-14 utility commission to the extent of access to all accounts and

39-15 records of those affiliated interests relating to such

39-16 transactions, including but in no way limited to accounts and

39-17 records of joint or general expenses, any portion of which may be

39-18 applicable to those transactions.

39-19 SECTION 2.64. Section 13.342, Water Code, is amended to

39-20 read as follows:

39-21 Sec. 13.342. DISCLOSURE OF SUBSTANTIAL INTEREST IN VOTING

39-22 SECURITIES. The utility commission may require the disclosure of

39-23 the identity and respective interests of every owner of any

39-24 substantial interest in the voting securities of any utility or its

39-25 affiliated interest. One percent or more is a substantial interest

39-26 within the meaning of this section.

39-27 SECTION 2.65. Section 13.343(a), Water Code, is amended to

39-28 read as follows:

39-29 (a) The owner of a utility that supplies retail water

39-30 service may not contract to purchase from an affiliated supplier

39-31 wholesale water service for any of that owner's systems unless:

39-32 (1) the wholesale service is provided for not more

39-33 than 90 days to remedy an emergency condition, as defined by utility

39-34 commission or commission rule; or

39-35 (2) the utility commission [~~executive director~~]

39-36 determines that the utility cannot obtain wholesale water service

39-37 from another source at a lower cost than from the affiliate.

39-38 SECTION 2.66. Section 13.381, Water Code, is amended to

39-39 read as follows:

39-40 Sec. 13.381. RIGHT TO JUDICIAL REVIEW; EVIDENCE. Any party

39-41 to a proceeding before the utility commission or the commission is

39-42 entitled to judicial review under the substantial evidence rule.

39-43 SECTION 2.67. Section 13.382(a), Water Code, is amended to

39-44 read as follows:

39-45 (a) Any party represented by counsel who alleges that

39-46 existing rates are excessive or that rates prescribed by the

39-47 utility commission are excessive and who is a prevailing party in

39-48 proceedings for review of a utility commission order or decision

39-49 may in the same action recover against the regulation fund

39-50 reasonable fees for attorneys and expert witnesses and other costs

39-51 incurred by him before the utility commission and the court. The

39-52 amount of the attorney's fees shall be fixed by the court.

39-53 SECTION 2.68. Section 13.411, Water Code, is amended to

39-54 read as follows:

39-55 Sec. 13.411. ACTION TO ENJOIN OR REQUIRE COMPLIANCE. (a)

39-56 If the utility commission or the commission has reason to believe

39-57 that any retail public utility or any other person or corporation is

39-58 engaged in or is about to engage in any act in violation of this

39-59 chapter or of any order or rule of the utility commission or the

39-60 commission entered or adopted under this chapter or that any retail

39-61 public utility or any other person or corporation is failing to

39-62 comply with this chapter or with any rule or order, the attorney

39-63 general on request of the utility commission or the commission, in

39-64 addition to any other remedies provided in this chapter, shall

39-65 bring an action in a court of competent jurisdiction in the name of

39-66 and on behalf of the utility commission or the commission against

39-67 the retail public utility or other person or corporation to enjoin

39-68 the commencement or continuation of any act or to require

39-69 compliance with this chapter or the rule or order.

40-1 (b) If the utility commission or the executive director of
 40-2 the commission has reason to believe that the failure of the owner
 40-3 or operator of a water utility to properly operate, maintain, or
 40-4 provide adequate facilities presents an imminent threat to human
 40-5 health or safety, the utility commission or the executive director
 40-6 shall immediately:

- 40-7 (1) notify the utility's representative; and
 40-8 (2) initiate enforcement action consistent with:
 40-9 (A) this subchapter; and

40-10 (B) procedural rules adopted by the utility
 40-11 commission or the commission.

40-12 SECTION 2.69. Section 13.4115, Water Code, is amended to
 40-13 read as follows:

40-14 Sec. 13.4115. ACTION TO REQUIRE ADJUSTMENT TO CONSUMER
 40-15 CHARGE; PENALTY. In regard to a customer complaint arising out of a
 40-16 charge made by a public utility, if the utility commission [~~the~~
 40-17 ~~executive director~~] finds that the utility has failed to make the
 40-18 proper adjustment to the customer's bill after the conclusion of
 40-19 the complaint process established by the utility commission, the
 40-20 utility commission may issue an order requiring the utility to make
 40-21 the adjustment. Failure to comply with the order within 30 days of
 40-22 receiving the order is a violation for which the utility commission
 40-23 may impose an administrative penalty under Section 13.4151.

40-24 SECTION 2.70. Sections 13.412(a), (f), and (g), Water Code,
 40-25 are amended to read as follows:

40-26 (a) At the request of the utility commission or the
 40-27 commission, the attorney general shall bring suit for the
 40-28 appointment of a receiver to collect the assets and carry on the
 40-29 business of a water or sewer utility that:

- 40-30 (1) has abandoned operation of its facilities;
 40-31 (2) informs the utility commission or the commission
 40-32 that the owner is abandoning the system;
 40-33 (3) violates a final order of the utility commission
 40-34 or the commission; or

40-35 (4) allows any property owned or controlled by it to be
 40-36 used in violation of a final order of the utility commission or the
 40-37 commission.

40-38 (f) For purposes of this section and Section 13.4132,
 40-39 abandonment may include but is not limited to:

40-40 (1) failure to pay a bill or obligation owed to a
 40-41 retail public utility or to an electric or gas utility with the
 40-42 result that the utility service provider has issued a notice of
 40-43 discontinuance of necessary services;

40-44 (2) failure to provide appropriate water or wastewater
 40-45 treatment so that a potential health hazard results;

40-46 (3) failure to adequately maintain facilities,
 40-47 resulting in potential health hazards, extended outages, or
 40-48 repeated service interruptions;

40-49 (4) failure to provide customers adequate notice of a
 40-50 health hazard or potential health hazard;

40-51 (5) failure to secure an alternative available water
 40-52 supply during an outage;

40-53 (6) displaying a pattern of hostility toward or
 40-54 repeatedly failing to respond to the utility commission or the
 40-55 commission or the utility's customers; and

40-56 (7) failure to provide the utility commission or the
 40-57 commission with adequate information on how to contact the utility
 40-58 for normal business and emergency purposes.

40-59 (g) Notwithstanding Section 64.021, Civil Practice and
 40-60 Remedies Code, a receiver appointed under this section may seek
 40-61 [~~commission~~] approval from the utility commission and the
 40-62 commission to acquire the water or sewer utility's facilities and
 40-63 transfer the utility's certificate of convenience and necessity.
 40-64 The receiver must apply in accordance with Subchapter H.

40-65 SECTION 2.71. Section 13.413, Water Code, is amended to
 40-66 read as follows:

40-67 Sec. 13.413. PAYMENT OF COSTS OF RECEIVERSHIP. The
 40-68 receiver may, subject to the approval of the court and after giving
 40-69 notice to all interested parties, sell or otherwise dispose of all

41-1 or part of the real or personal property of a water or sewer utility
 41-2 against which a proceeding has been brought under this subchapter
 41-3 to pay the costs incurred in the operation of the receivership. The
 41-4 costs include:

- 41-5 (1) payment of fees to the receiver for his services;
- 41-6 (2) payment of fees to attorneys, accountants,
 41-7 engineers, or any other person or entity that provides goods or
 41-8 services necessary to the operation of the receivership; and
- 41-9 (3) payment of costs incurred in ensuring that any
 41-10 property owned or controlled by a water or sewer utility is not used
 41-11 in violation of a final order of the utility commission or the
 41-12 commission.

41-13 SECTION 2.72. Section 13.4131, Water Code, is amended to
 41-14 read as follows:

41-15 Sec. 13.4131. SUPERVISION OF CERTAIN UTILITIES. (a) The
 41-16 utility commission, after providing to the utility notice and an
 41-17 opportunity for a hearing, may place a utility under supervision
 41-18 for gross or continuing mismanagement, gross or continuing
 41-19 noncompliance with this chapter or a rule adopted under this
 41-20 chapter [~~commission rules~~], or noncompliance with an order issued
 41-21 under this chapter [~~commission orders~~].

41-22 (b) While supervising a utility, the utility commission may
 41-23 require the utility to abide by conditions and requirements
 41-24 prescribed by the utility commission, including:

- 41-25 (1) management requirements;
- 41-26 (2) additional reporting requirements;
- 41-27 (3) restrictions on hiring, salary or benefit
 41-28 increases, capital investment, borrowing, stock issuance or
 41-29 dividend declarations, and liquidation of assets; and
- 41-30 (4) a requirement that the utility place the utility's
 41-31 funds into an account in a financial institution approved by the
 41-32 utility commission and use of those funds shall be restricted to
 41-33 reasonable and necessary utility expenses.

41-34 (c) While supervising a utility, the utility commission may
 41-35 require that the utility obtain [~~commission~~] approval from the
 41-36 utility commission before taking any action that may be restricted
 41-37 under Subsection (b) [~~of this section~~]. Any action or transaction
 41-38 which occurs without [~~commission~~] approval may be voided by the
 41-39 utility commission.

41-40 SECTION 2.73. Sections 13.4132(a), (b), and (d), Water
 41-41 Code, are amended to read as follows:

41-42 (a) The utility commission or the commission, after
 41-43 providing to the utility notice and an opportunity to be heard by
 41-44 the commissioners at a utility commission or commission meeting,
 41-45 may authorize a willing person to temporarily manage and operate a
 41-46 utility if the utility:

- 41-47 (1) has discontinued or abandoned operations or the
 41-48 provision of services; or
- 41-49 (2) has been or is being referred to the attorney
 41-50 general for the appointment of a receiver under Section 13.412.

41-51 (b) The utility commission or the commission may appoint a
 41-52 person under this section by emergency order, and notice of the
 41-53 action is adequate if the notice is mailed or hand-delivered to the
 41-54 last known address of the utility's headquarters.

41-55 (d) This section does not affect the authority of the
 41-56 utility commission or the commission to pursue an enforcement claim
 41-57 against a utility or an affiliated interest.

41-58 SECTION 2.74. Sections 13.4133(a) and (c), Water Code, are
 41-59 amended to read as follows:

41-60 (a) Notwithstanding the requirements of Subchapter F
 41-61 [~~Section 13.187 of this code~~], the utility commission may authorize
 41-62 an emergency rate increase for a utility for which a person has been
 41-63 appointed under Section 13.4132 [~~of this code~~] or for which a
 41-64 receiver has been appointed under Section 13.412 [~~of this code~~] if
 41-65 the increase is necessary to ensure the provision of continuous and
 41-66 adequate services to the utility's customers.

41-67 (c) The utility commission shall schedule a hearing to
 41-68 establish a final rate within 15 months after the date on which an
 41-69 emergency rate increase takes effect. The utility commission shall

42-1 require the utility to provide notice of the hearing to each
42-2 customer. The additional revenues collected under an emergency
42-3 rate increase are subject to refund if the utility commission finds
42-4 that the rate increase was larger than necessary to ensure
42-5 continuous and adequate service.

42-6 SECTION 2.75. Sections 13.414(a) and (c), Water Code, are
42-7 amended to read as follows:

42-8 (a) Any retail public utility or affiliated interest that
42-9 violates this chapter, fails to perform a duty imposed on it, or
42-10 fails, neglects, or refuses to obey an order, rule, direction, or
42-11 requirement of the utility commission or the commission or decree
42-12 or judgment of a court is subject to a civil penalty of not less than
42-13 \$100 nor more than \$5,000 for each violation.

42-14 (c) The attorney general shall institute suit on his own
42-15 initiative or at the request of, in the name of, and on behalf of the
42-16 utility commission or the commission in a court of competent
42-17 jurisdiction to recover the penalty under this section.

42-18 SECTION 2.76. Sections 13.4151(a), (b), (c), (d), (e), (f),
42-19 (g), (h), (i), (j), (k), and (m), Water Code, are amended to read as
42-20 follows:

42-21 (a) If a person, affiliated interest, or entity subject to
42-22 the jurisdiction of the utility commission or the commission
42-23 violates this chapter or a rule or order adopted under this chapter,
42-24 the utility commission or the commission, as applicable, may assess
42-25 a penalty against that person, affiliated interest, or entity as
42-26 provided by this section. The penalty may be in an amount not to
42-27 exceed \$5,000 a day. Each day a violation continues may be
42-28 considered a separate violation.

42-29 (b) In determining the amount of the penalty, the utility
42-30 commission or the commission shall consider:

42-31 (1) the nature, circumstances, extent, duration, and
42-32 gravity of the prohibited acts or omissions;

42-33 (2) with respect to the alleged violator:

42-34 (A) the history and extent of previous
42-35 violations;

42-36 (B) the degree of culpability, including whether
42-37 the violation was attributable to mechanical or electrical failures
42-38 and whether the violation could have been reasonably anticipated
42-39 and avoided;

42-40 (C) the demonstrated good faith, including
42-41 actions taken by the person, affiliated interest, or entity to
42-42 correct the cause of the violation;

42-43 (D) any economic benefit gained through the
42-44 violation; and

42-45 (E) the amount necessary to deter future
42-46 violations; and

42-47 (3) any other matters that justice requires.

42-48 (c) If, after examination of a possible violation and the
42-49 facts surrounding that possible violation, the utility commission
42-50 or the executive director of the commission concludes that a
42-51 violation has occurred, the utility commission or the executive
42-52 director may issue a preliminary report stating the facts on which
42-53 that conclusion is based, recommending that a penalty under this
42-54 section be imposed on the person, affiliated interest, or retail
42-55 public utility charged, and recommending the amount of that
42-56 proposed penalty. The utility commission or the executive director
42-57 shall base the recommended amount of the proposed penalty on the
42-58 factors provided by Subsection (b) [~~of this section~~], and shall
42-59 analyze each factor for the benefit of the appropriate agency
42-60 [~~commission~~].

42-61 (d) Not later than the 10th day after the date on which the
42-62 report is issued, the utility commission or the executive director
42-63 of the commission shall give written notice of the report to the
42-64 person, affiliated interest, or retail public utility charged with
42-65 the violation. The notice shall include a brief summary of the
42-66 charges, a statement of the amount of the penalty recommended, and a
42-67 statement of the right of the person, affiliated interest, or
42-68 retail public utility charged to a hearing on the occurrence of the
42-69 violation, the amount of the penalty, or both.

43-1 (e) Not later than the 20th day after the date on which
 43-2 notice is received, the person, affiliated interest, or retail
 43-3 public utility charged may give the appropriate agency [~~commission~~]
 43-4 written consent to the [~~executive director's~~] report described by
 43-5 Subsection (c), including the recommended penalty, or may make a
 43-6 written request for a hearing.

43-7 (f) If the person, affiliated interest, or retail public
 43-8 utility charged with the violation consents to the penalty
 43-9 recommended in the report described by Subsection (c) [~~by the~~
 43-10 ~~executive director~~] or fails to timely respond to the notice, the
 43-11 utility commission or the commission by order shall assess that
 43-12 penalty or order a hearing to be held on the findings and
 43-13 recommendations in the [~~executive director's~~] report. If the
 43-14 utility commission or the commission assesses the penalty
 43-15 recommended by the report, the utility commission or the commission
 43-16 shall give written notice to the person, affiliated interest, or
 43-17 retail public utility charged of its decision.

43-18 (g) If the person, affiliated interest, or retail public
 43-19 utility charged requests or the utility commission or the
 43-20 commission orders a hearing, the appropriate agency [~~commission~~]
 43-21 shall call a hearing and give notice of the hearing. As a result of
 43-22 the hearing, the appropriate agency [~~commission~~] by order may find
 43-23 that a violation has occurred and may assess a civil penalty, may
 43-24 find that a violation has occurred but that no penalty should be
 43-25 assessed, or may find that no violation has occurred. All
 43-26 proceedings under this subsection are subject to Chapter 2001,
 43-27 Government Code. In making any penalty decision, the appropriate
 43-28 agency [~~commission~~] shall analyze each of the factors provided by
 43-29 Subsection (b) [~~of this section~~].

43-30 (h) The utility commission or the commission shall give
 43-31 notice of its decision to the person, affiliated interest, or
 43-32 retail public utility charged, and if the appropriate agency
 43-33 [~~commission~~] finds that a violation has occurred and has assessed a
 43-34 penalty, that agency [~~the commission~~] shall give written notice to
 43-35 the person, affiliated interest, or retail public utility charged
 43-36 of its findings, of the amount of the penalty, and of the person's,
 43-37 affiliated interest's, or retail public utility's right to judicial
 43-38 review of the agency's [~~commission's~~] order. If the utility
 43-39 commission or the commission is required to give notice of a penalty
 43-40 under this subsection or Subsection (f) [~~of this section~~], the
 43-41 appropriate agency [~~commission~~] shall file notice of that agency's
 43-42 [~~its~~] decision in the Texas Register not later than the 10th day
 43-43 after the date on which the decision is adopted.

43-44 (i) Within the 30-day period immediately following the day
 43-45 on which the utility commission's or commission's order is final, as
 43-46 provided by Subchapter F, Chapter 2001, Government Code, the
 43-47 person, affiliated interest, or retail public utility charged with
 43-48 the penalty shall:

43-49 (1) pay the penalty in full; or

43-50 (2) if the person, affiliated interest, or retail
 43-51 public utility seeks judicial review of the fact of the violation,
 43-52 the amount of the penalty, or both:

43-53 (A) forward the amount of the penalty to the
 43-54 appropriate agency [~~commission~~] for placement in an escrow account;
 43-55 or

43-56 (B) post with the appropriate agency
 43-57 [~~commission~~] a supersedeas bond in a form approved by the agency
 43-58 [~~commission~~] for the amount of the penalty to be effective until all
 43-59 judicial review of the order or decision is final.

43-60 (j) Failure to forward the money to or to post the bond with
 43-61 the utility commission or the commission within the time provided
 43-62 by Subsection (i) [~~of this section~~] constitutes a waiver of all
 43-63 legal rights to judicial review. If the person, affiliated
 43-64 interest, or retail public utility charged fails to forward the
 43-65 money or post the bond as provided by Subsection (i) [~~of this~~
 43-66 ~~section~~], the appropriate agency [~~commission~~] or the executive
 43-67 director of that agency may forward the matter to the attorney
 43-68 general for enforcement.

43-69 (k) Judicial review of the order or decision of the utility

44-1 commission or the commission assessing the penalty shall be under
 44-2 the substantial evidence rule and may be instituted by filing a
 44-3 petition with a district court in Travis County, as provided by
 44-4 Subchapter G, Chapter 2001, Government Code.

44-5 (m) Notwithstanding any other provision of law, the utility
 44-6 commission or the commission may compromise, modify, extend the
 44-7 time for payment of, or remit, with or without condition, any
 44-8 penalty imposed under this section.

44-9 SECTION 2.77. Section 13.417, Water Code, is amended to
 44-10 read as follows:

44-11 Sec. 13.417. CONTEMPT PROCEEDINGS. If any person or retail
 44-12 public utility fails to comply with any lawful order of the utility
 44-13 commission or the commission or with any subpoena or subpoena duces
 44-14 tecum or if any witness refuses to testify about any matter on which
 44-15 he may be lawfully interrogated, the utility commission or the
 44-16 commission may apply to any court of competent jurisdiction to
 44-17 compel obedience by proceedings for contempt.

44-18 SECTION 2.78. Section 13.418, Water Code, is amended to
 44-19 read as follows:

44-20 Sec. 13.418. DISPOSITION OF FINES AND PENALTIES; WATER
 44-21 UTILITY IMPROVEMENT ACCOUNT. (a) Fines and penalties collected
 44-22 under this chapter from a retail public utility that is not a public
 44-23 utility in other than criminal proceedings shall be [~~paid to the~~
 44-24 ~~commission and~~] deposited in the general revenue fund.

44-25 (b) Fines and penalties collected from a public utility
 44-26 under this chapter in other than criminal proceedings shall be
 44-27 [~~paid to the commission and~~] deposited in the water utility
 44-28 improvement account as provided by Section 341.0485, Health and
 44-29 Safety Code.

44-30 SECTION 2.79. Section 13.501(7), Water Code, is amended to
 44-31 read as follows:

44-32 (7) "Multiple use facility" means commercial or
 44-33 industrial parks, office complexes, marinas, and others
 44-34 specifically identified in utility commission rules with five or
 44-35 more units.

44-36 SECTION 2.80. Section 13.502(e), Water Code, is amended to
 44-37 read as follows:

44-38 (e) An owner of an apartment house, manufactured home rental
 44-39 community, or multiple use facility or a manager of a condominium
 44-40 may not change from submetered billing to allocated billing unless:

44-41 (1) the utility commission [~~executive director~~]
 44-42 approves of the change in writing after a demonstration of good
 44-43 cause, including meter reading or billing problems that could not
 44-44 feasibly be corrected or equipment failures; and

44-45 (2) the property owner meets rental agreement
 44-46 requirements established by the utility commission.

44-47 SECTION 2.81. Sections 13.503(a), (b), and (e), Water Code,
 44-48 are amended to read as follows:

44-49 (a) The utility commission shall encourage submetering of
 44-50 individual rental or dwelling units by master meter operators or
 44-51 building owners to enhance the conservation of water resources.

44-52 (b) Notwithstanding any other law, the utility commission
 44-53 shall adopt rules and standards under which an owner, operator, or
 44-54 manager of an apartment house, manufactured home rental community,
 44-55 or multiple use facility that is not individually metered for water
 44-56 for each rental or dwelling unit may install submetering equipment
 44-57 for each individual rental or dwelling unit for the purpose of
 44-58 fairly allocating the cost of each individual rental or dwelling
 44-59 unit's water consumption, including wastewater charges based on
 44-60 water consumption. In addition to other appropriate safeguards for
 44-61 the tenant, the rules shall require that, except as provided by this
 44-62 section, an apartment house owner, manufactured home rental
 44-63 community owner, multiple use facility owner, or condominium
 44-64 manager may not impose on the tenant any extra charges, over and
 44-65 above the cost per gallon and any other applicable taxes and
 44-66 surcharges that are charged by the retail public utility to the
 44-67 owner or manager, and that the rental unit or apartment house owner
 44-68 or manager shall maintain adequate records regarding submetering
 44-69 and make the records available for inspection by the tenant during

45-1 reasonable business hours. The rules shall allow an owner or
 45-2 manager to charge a tenant a fee for late payment of a submetered
 45-3 water bill if the amount of the fee does not exceed five percent of
 45-4 the bill paid late. All submetering equipment is subject to the
 45-5 rules and standards established by the utility commission for
 45-6 accuracy, testing, and record keeping of meters installed by
 45-7 utilities and to the meter-testing requirements of Section 13.140
 45-8 [~~of this code~~].

45-9 (e) The utility commission may authorize a building owner to
 45-10 use submetering equipment that relies on integrated radio based
 45-11 meter reading systems and remote registration in a building
 45-12 plumbing system using submeters that comply with nationally
 45-13 recognized plumbing standards and are as accurate as utility water
 45-14 meters in single application conditions.

45-15 SECTION 2.82. Section 13.5031, Water Code, is amended to
 45-16 read as follows:

45-17 Sec. 13.5031. NONSUBMETERING RULES. Notwithstanding any
 45-18 other law, the utility commission shall adopt rules and standards
 45-19 governing billing systems or methods used by manufactured home
 45-20 rental community owners, apartment house owners, condominium
 45-21 managers, or owners of other multiple use facilities for prorating
 45-22 or allocating among tenants nonsubmetered master metered utility
 45-23 service costs. In addition to other appropriate safeguards for the
 45-24 tenant, those rules shall require that:

45-25 (1) the rental agreement contain a clear written
 45-26 description of the method of calculation of the allocation of
 45-27 nonsubmetered master metered utilities for the manufactured home
 45-28 rental community, apartment house, or multiple use facility;

45-29 (2) the rental agreement contain a statement of the
 45-30 average manufactured home, apartment, or multiple use facility unit
 45-31 monthly bill for all units for any allocation of those utilities for
 45-32 the previous calendar year;

45-33 (3) except as provided by this section, an owner or
 45-34 condominium manager may not impose additional charges on a tenant
 45-35 in excess of the actual charges imposed on the owner or condominium
 45-36 manager for utility consumption by the manufactured home rental
 45-37 community, apartment house, or multiple use facility;

45-38 (4) the owner or condominium manager shall maintain
 45-39 adequate records regarding the utility consumption of the
 45-40 manufactured home rental community, apartment house, or multiple
 45-41 use facility, the charges assessed by the retail public utility,
 45-42 and the allocation of the utility costs to the tenants;

45-43 (5) the owner or condominium manager shall maintain
 45-44 all necessary records concerning utility allocations, including
 45-45 the retail public utility's bills, and shall make the records
 45-46 available for inspection by the tenants during normal business
 45-47 hours; and

45-48 (6) the owner or condominium manager may charge a
 45-49 tenant a fee for late payment of an allocated water bill if the
 45-50 amount of the fee does not exceed five percent of the bill paid
 45-51 late.

45-52 SECTION 2.83. Section 13.505, Water Code, is amended to
 45-53 read as follows:

45-54 Sec. 13.505. ENFORCEMENT. In addition to the enforcement
 45-55 provisions contained in Subchapter K [~~of this chapter~~], if an
 45-56 apartment house owner, condominium manager, manufactured home
 45-57 rental community owner, or other multiple use facility owner
 45-58 violates a rule of the utility commission regarding submetering of
 45-59 utility service consumed exclusively within the tenant's dwelling
 45-60 unit or multiple use facility unit or nonsubmetered master metered
 45-61 utility costs, the tenant may recover three times the amount of any
 45-62 overcharge, a civil penalty equal to one month's rent, reasonable
 45-63 attorney's fees, and court costs from the owner or condominium
 45-64 manager. However, an owner of an apartment house, manufactured
 45-65 home rental community, or other multiple use facility or
 45-66 condominium manager is not liable for a civil penalty if the owner
 45-67 or condominium manager proves the violation was a good faith,
 45-68 unintentional mistake.

45-69 SECTION 2.84. Section 13.512, Water Code, is amended to

46-1 read as follows:

46-2 Sec. 13.512. AUTHORITY TO ENTER INTO PRIVATIZATION
 46-3 CONTRACTS. Any eligible city is authorized to enter into
 46-4 privatization contracts if such action is recommended by the board
 46-5 of utility trustees and authorized by the governing body of the
 46-6 eligible city pursuant to an ordinance. Any privatization contract
 46-7 entered into prior to the effective date of this Act is validated,
 46-8 ratified, and approved. Each eligible city shall file a copy of its
 46-9 privatization contract with the utility commission, for
 46-10 information purposes only, within 60 days of execution or the
 46-11 effective date of this Act, whichever is later.

46-12 SECTION 2.85. Section 13.513, Water Code, is amended to
 46-13 read as follows:

46-14 Sec. 13.513. ELECTION BY ELIGIBLE CITY TO EXEMPT SERVICE
 46-15 PROVIDER FROM UTILITY COMMISSION JURISDICTION. A service provider
 46-16 shall not constitute a "water and sewer utility," a "public
 46-17 utility," a "utility," or a "retail public utility" within the
 46-18 meaning of this chapter [~~Chapter 13~~] as a result of entering into or
 46-19 performing a privatization contract, if the governing body of the
 46-20 eligible city shall so elect by ordinance and provide notice
 46-21 thereof in writing to the utility commission; provided, however,
 46-22 this provision shall not affect the application of this chapter
 46-23 [~~Chapter 13~~] to an eligible city itself. Notwithstanding anything
 46-24 contained in this section, any service provider who seeks to extend
 46-25 or render sewer service to any person or municipality other than, or
 46-26 in addition to, an eligible city may be a "public utility" for the
 46-27 purposes of this chapter [~~Chapter 13~~] with respect to such other
 46-28 person or municipality.

46-29 SECTION 2.86. Section 49.352(c), Water Code, is amended to
 46-30 read as follows:

46-31 (c) For purposes of this section, a municipality may obtain
 46-32 single certification in the manner provided by Section 13.255,
 46-33 except that the municipality may file an application with the
 46-34 Public Utility Commission of Texas [~~commission~~] to grant single
 46-35 certification immediately after the municipality provides notice
 46-36 of intent to provide service as required by Section 13.255(b).

46-37 SECTION 2.87. Section 552.047(e), Local Government Code, is
 46-38 amended to read as follows:

46-39 (e) Users residing within the established service area, but
 46-40 outside the municipality's boundaries, may appeal rates
 46-41 established for drainage charges under [~~to the Texas Natural~~
 46-42 ~~Resource Conservation Commission as authorized by~~] Section
 46-43 13.043(b), [~~of the~~] Water Code.

46-44 SECTION 2.88. Section 7201.004(b), Special District Local
 46-45 Laws Code, is amended to read as follows:

46-46 (b) This section does not apply to:

46-47 (1) rules or regulations concerning potable water
 46-48 quality standards; or

46-49 (2) conflicts relating to service areas or
 46-50 certificates issued to the corporation or district by the Public
 46-51 Utility Commission of Texas or the Texas Commission on
 46-52 Environmental Quality.

46-53 SECTION 2.89. Section 7201.005(c), Special District Local
 46-54 Laws Code, is amended to read as follows:

46-55 (c) District boundaries may be modified in accordance with
 46-56 Chapters 13 and 49, Water Code, except that the boundaries must
 46-57 include all territory in any area included under a certificate of
 46-58 convenience and necessity issued by the Public Utility Commission
 46-59 of Texas or the Texas Commission on Environmental Quality to the
 46-60 district.

46-61 SECTION 2.90. Section 7201.102, Special District Local Laws
 46-62 Code, is amended to read as follows:

46-63 Sec. 7201.102. PROVISION OF SERVICE. The district shall at
 46-64 all times operate and construct necessary improvements within the
 46-65 certificated areas established by the Public Utility Commission of
 46-66 Texas or the Texas Commission on Environmental Quality [~~commission~~]
 46-67 to provide uninterrupted, continuous, and adequate service to
 46-68 existing and future customers for water, sewer, and contract
 46-69 services.

47-1 SECTION 2.91. Section 8363.106(b), Special District Local
47-2 Laws Code, is amended to read as follows:

47-3 (b) In relation to a retail public utility that provides
47-4 water or sewer service to all or part of the area of the district
47-5 under a certificate of public convenience and necessity, the
47-6 district may exercise the powers given to a municipality provided
47-7 by Section 13.255, Water Code, as if the district were a
47-8 municipality that had annexed the area of the district. The Public
47-9 Utility Commission of Texas [~~commission~~] shall grant single
47-10 certification as to the city as provided by Section 13.255(c),
47-11 Water Code, in the event that the district applies for the
47-12 certification on the city's behalf in the manner provided by
47-13 Section 13.255(b), Water Code.

47-14 SECTION 2.92. Section 8363.251(a), Special District Local
47-15 Laws Code, is amended to read as follows:

47-16 (a) The city may dissolve the district by ordinance after
47-17 provision is made for all debts incurred by the district if one or
47-18 more of the following does not occur:

47-19 (1) on or before the 90th day after the effective date
47-20 of the Act enacting this chapter, the city receives one or more
47-21 petitions requesting annexation of all territory in the district
47-22 remaining in the extraterritorial jurisdiction of the city;

47-23 (2) on or before the last day of the ninth month after
47-24 the effective date of the Act enacting this chapter, the city adopts
47-25 one or more ordinances annexing all territory in the district
47-26 remaining in the city's extraterritorial jurisdiction;

47-27 (3) on or before the last day of the third year after
47-28 the effective date of the Act enacting this chapter, the Public
47-29 Utility Commission of Texas [~~commission~~] issues an order approving
47-30 the sale and transfer of a certificate of public convenience and
47-31 necessity authorizing the city to provide retail water service to
47-32 territory in the district; or

47-33 (4) by the end of the fifth year after the effective
47-34 date of the Act enacting this chapter, the district has completed
47-35 construction of internal streets and water and sanitary sewer
47-36 facilities sufficient to serve at least 100 residential lots in the
47-37 district.

47-38 SECTION 2.93. Section 8801.201, Special District Local Laws
47-39 Code, is amended to read as follows:

47-40 Sec. 8801.201. APPEAL OF SURFACE WATER RATES. (a) A
47-41 person who is required to convert to surface water under this
47-42 chapter and who purchases that water supply wholesale from a
47-43 political subdivision as defined by Section 12.013(b), Water Code,
47-44 may appeal to the Public Utility Commission of Texas [~~commission~~]
47-45 the rates the political subdivision charges to the person. Chapter
47-46 12, Water Code, and rules adopted under that chapter apply to an
47-47 appeal under this section.

47-48 (b) The Public Utility Commission of Texas [~~commission~~]
47-49 shall hear the appeal not later than the 180th day after the date
47-50 the appeal is filed.

47-51 (c) The Public Utility Commission of Texas [~~commission~~]
47-52 shall issue a final decision on the appeal not later than the 60th
47-53 day after the date the hearing ends.

47-54 SECTION 2.94. Section 8803.151(1), Special District Local
47-55 Laws Code, is amended to read as follows:

47-56 (1) "Commission" means the Public Utility Commission
47-57 of Texas [~~Commission on Environmental Quality~~].

47-58 SECTION 2.95. Section 8808.151(1), Special District Local
47-59 Laws Code, is amended to read as follows:

47-60 (1) "Commission" means the Public Utility Commission
47-61 of Texas [~~Commission on Environmental Quality~~].

47-62 SECTION 2.96. (a) On September 1, 2014, the following are
47-63 transferred from the Texas Commission on Environmental Quality to
47-64 the Public Utility Commission of Texas:

47-65 (1) the powers, duties, functions, programs, and
47-66 activities of the Texas Commission on Environmental Quality
47-67 relating to the economic regulation of water and sewer service,
47-68 including the issuance and transfer of certificates of convenience
47-69 and necessity, the determination of rates, and the administration

48-1 of hearings and proceedings involving those matters, under Section
48-2 12.013 and Chapter 13, Water Code, as provided by this Act;

48-3 (2) any obligations and contracts of the Texas
48-4 Commission on Environmental Quality that are directly related to
48-5 implementing a power, duty, function, program, or activity
48-6 transferred under this Act; and

48-7 (3) all property and records in the custody of the
48-8 Texas Commission on Environmental Quality that are related to a
48-9 power, duty, function, program, or activity transferred under this
48-10 Act and all funds appropriated by the legislature for that power,
48-11 duty, function, program, or activity.

48-12 (b) The Texas Commission on Environmental Quality shall
48-13 continue to carry out the commission's duties related to the
48-14 economic regulation of water and sewer service under the law as it
48-15 existed immediately before the effective date of this Act until
48-16 September 1, 2014, and the former law is continued in effect for
48-17 that purpose.

48-18 (c) The Texas Commission on Environmental Quality and the
48-19 Public Utility Commission of Texas shall enter into a memorandum of
48-20 understanding that:

48-21 (1) identifies in detail the applicable powers and
48-22 duties that are transferred by this Act;

48-23 (2) establishes a plan for the identification and
48-24 transfer of the records, personnel, property, and unspent
48-25 appropriations of the Texas Commission on Environmental Quality
48-26 that are used for purposes of the commission's powers and duties
48-27 directly related to the economic regulation of water and sewer
48-28 service under Section 12.013 and Chapter 13, Water Code, as amended
48-29 by this Act; and

48-30 (3) establishes a plan for the transfer of all pending
48-31 applications, hearings, rulemaking proceedings, and orders
48-32 relating to the economic regulation of water and sewer service
48-33 under Section 12.013 and Chapter 13, Water Code, as amended by this
48-34 Act, from the Texas Commission on Environmental Quality to the
48-35 Public Utility Commission of Texas.

48-36 (d) The memorandum of understanding under this section:

48-37 (1) is not required to be adopted by rule under Section
48-38 5.104, Water Code; and

48-39 (2) must be completed by August 1, 2014.

48-40 (e) The executive directors of the Texas Commission on
48-41 Environmental Quality and the Public Utility Commission of Texas
48-42 may agree in the memorandum of understanding under this section to
48-43 transfer to the Public Utility Commission of Texas any personnel of
48-44 the Texas Commission on Environmental Quality whose functions
48-45 predominantly involve powers, duties, obligations, functions, and
48-46 activities related to the economic regulation of water and sewer
48-47 service under Section 12.013 and Chapter 13, Water Code, as amended
48-48 by this Act.

48-49 (f) The Texas Commission on Environmental Quality and the
48-50 Public Utility Commission of Texas shall periodically update the
48-51 Office of Public Utility Counsel on the anticipated contents of the
48-52 memorandum of understanding under this section during the
48-53 development of the memorandum.

48-54 (g) On or after September 1, 2013, the Office of Public
48-55 Utility Counsel may initiate or intervene in a contested case
48-56 before the Texas Commission on Environmental Quality that the
48-57 office would be entitled to initiate or intervene in if the case
48-58 were before the Public Utility Commission of Texas, as authorized
48-59 by Chapter 13, Water Code, as amended by this Act.

48-60 (h) The Texas Commission on Environmental Quality and the
48-61 Public Utility Commission of Texas shall appoint a transition team
48-62 to accomplish the purposes of this section. The transition team may
48-63 consult with the Office of Public Utility Counsel to accomplish the
48-64 purposes of this section. The transition team shall establish
48-65 guidelines on how the two agencies will cooperate regarding:

48-66 (1) meeting federal drinking water standards;

48-67 (2) maintaining adequate supplies of water;

48-68 (3) meeting established design criteria for
48-69 wastewater treatment plants;

49-1 (4) demonstrating the economic feasibility of
49-2 regionalization; and
49-3 (5) serving the needs of economically distressed
49-4 areas.

49-5 (i) The transition team appointed under Subsection (h) of
49-6 this section shall provide monthly updates to the executive
49-7 directors of the Texas Commission on Environmental Quality and the
49-8 Public Utility Commission of Texas on the implementation of this
49-9 Act and provide a final report on the implementation to the
49-10 executive directors not later than September 1, 2014.

49-11 (j) A rule, form, policy, procedure, or decision of the
49-12 Texas Commission on Environmental Quality related to a power, duty,
49-13 function, program, or activity transferred under this Act continues
49-14 in effect as a rule, form, policy, procedure, or decision of the
49-15 Public Utility Commission of Texas and remains in effect until
49-16 amended or replaced by that agency. Notwithstanding any other law,
49-17 beginning September 1, 2013, the Public Utility Commission of Texas
49-18 may propose rules, forms, policies, and procedures related to a
49-19 function to be transferred to the Public Utility Commission of
49-20 Texas under this Act.

49-21 (k) The Public Utility Commission of Texas and the Texas
49-22 Commission on Environmental Quality shall adopt rules to implement
49-23 the changes in law made by this Act to Section 12.013 and Chapter
49-24 13, Water Code, not later than September 1, 2015.

49-25 (l) An affiliate of a Class A utility, as those terms are
49-26 defined by Section 13.002, Water Code, as amended by this Act, may
49-27 not file an application for a rate change on or after the effective
49-28 date of this Act unless the affiliated Class A utility has filed for
49-29 a rate change on or after that date. In relation to the application
49-30 filed by the affiliate of the Class A utility, the Public Utility
49-31 Commission of Texas:

49-32 (1) may not approve the rate change application until
49-33 the Public Utility Commission of Texas approves the rate change
49-34 application filed by the affiliated Class A utility; and

49-35 (2) may require the affiliate to comply with the Class
49-36 A utility rate change process prescribed by Section 13.187, Water
49-37 Code, regardless of whether the affiliate is classified as a Class
49-38 A, B, or C utility under Section 13.002, Water Code, as amended by
49-39 this Act.

49-40 SECTION 2.97. (a) The Public Utility Commission of Texas
49-41 shall conduct a comparative analysis of the ratemaking authority of
49-42 the commission before the effective date of this Act and the
49-43 ratemaking authority of the commission after the transition
49-44 described in Section 2.96 of this article, to identify potential
49-45 for procedural standardization. The Public Utility Commission of
49-46 Texas shall issue a report of the analysis, with recommendations
49-47 regarding rate standardization, for consideration by the 84th
49-48 Legislature.

49-49 (b) The Public Utility Commission of Texas shall prepare a
49-50 report describing staffing changes related to the transition
49-51 described in Section 2.96 of this article, including reductions in
49-52 staff that the commission may realize as a result of consolidated
49-53 functions. The Public Utility Commission of Texas shall submit the
49-54 report to the Legislative Budget Board and the governor with the
49-55 legislative appropriations request for the 2016-2017 biennium.

49-56 SECTION 2.98. The Office of Public Utility Counsel shall
49-57 prepare a report describing staffing changes related to the changes
49-58 in law made to the duties of the office in this article, including
49-59 reductions in staff that the office may realize as a result of
49-60 consolidated functions. The Office of Public Utility Counsel shall
49-61 submit the report to the Legislative Budget Board and the governor
49-62 with the legislative appropriations request for the 2016-2017
49-63 biennium.

49-64 ARTICLE 3. EFFECTIVE DATE

49-65 SECTION 3.01. This Act takes effect September 1, 2013.

49-66 * * * * *