S.B. No. 700

AN ACT

relating to retail public utilities that provide water or sewer service.

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

SECTION 1.  Section 13.002, Water Code, is amended by amending Subdivisions (4-b) and (4-c) and adding Subdivision (4-d) to read as follows:

(4-b)  "Class B utility" means a public utility that provides retail water or sewer utility service through 2,300 [~~500~~] or more taps or connections but fewer than 10,000 taps or connections.

(4-c)  "Class C utility" means a public utility that provides retail water or sewer utility service through 500 or more taps or connections but fewer than 2,300 [~~500~~] taps or connections.

(4-d)  "Class D utility" means a public utility that provides retail water or sewer utility service through fewer than 500 taps or connections.

SECTION 2.  Section 13.041, Water Code, is amended by amending Subsection (d) and adding Subsections (h), (i), and (j) to read as follows:

(d)  In accordance with Subchapter K-1, the utility commission may issue emergency orders, with or without a hearing:

(1)  to compel a retail public utility [~~water or sewer service provider~~] that has obtained or is required to obtain a certificate of public convenience and necessity to provide continuous and adequate water service, sewer service, or both, if the discontinuance of the service is imminent or has occurred because of the retail public utility's [~~service provider's~~] actions or failure to act; and

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

(h)  In accordance with Subchapter L, Chapter 5, the commission may issue emergency orders, with or without a hearing:

(1)  to compel a retail public utility that has obtained a certificate of public convenience and necessity to provide water or sewer service, or both, that complies with all statutory and regulatory requirements of the commission if necessary to ensure safe drinking water or environmental protection; and

(2)  to compel a retail public utility to provide an emergency interconnection with a neighboring retail public utility for the provision of temporary water or sewer service, or both, for not more than 90 days if necessary to ensure safe drinking water or environmental protection.

(i)  On request by the commission, the utility commission may, on an expedited basis, establish reasonable compensation for the temporary service required under Subsection (h)(2) and may allow the retail public utility receiving the service to make a temporary adjustment to its rate structure to ensure proper payment.

(j)  If an order is issued under Subsection (h) without a hearing, notice of a hearing under Section 5.504 to affirm, modify, or set aside the order is adequate if the notice is mailed or hand delivered to the last known address of the retail public utility's headquarters.

SECTION 3.  Section 13.046, Water Code, is amended by adding Subsection (d) to read as follows:

(d)  At the time the utility commission approves the acquisition of a nonfunctioning retail water or sewer utility service provider under Section 13.301, the utility commission shall:

(1)  determine the duration of the temporary rates for the retail public utility, which must be for a reasonable period; and

(2)  rule on the reasonableness of the temporary rates under Subsection (b) if the utility commission did not make a ruling before the application was filed under Section 13.301.

SECTION 4.  Section 13.183(c), Water Code, is amended to read as follows:

(c)  To ensure that retail customers receive a higher quality, more affordable, or more reliable water or sewer service, to encourage regionalization, or to maintain financially stable and technically sound utilities, the regulatory authority, by rule or ordinance, as appropriate, may adopt specific alternative ratemaking methodologies for water or sewer rates to allow for more timely and efficient cost recovery. Appropriate alternative ratemaking methodologies are the introduction of new customer classes, the cash needs method, and phased and multi-step rate changes. The regulatory authority may also adopt system improvement charges that may be periodically adjusted to ensure timely recovery of infrastructure investment. The utility commission by rule shall establish a schedule that requires all utilities that have implemented a system improvement charge approved by the utility commission to make periodic filings with the utility commission to modify or review base rates charged by the utility [~~based on factors other than rate of return and those specified in Section 13.185~~]. Overall revenues determined according to an alternative ratemaking methodology adopted under this section must provide revenues to the utility that satisfy the requirements of Subsection (a). The regulatory authority may not approve rates under an alternative ratemaking methodology unless the regulatory authority adopts the methodology before the date the rate application was administratively complete.

SECTION 5.  Section 13.187(a-1), Water Code, is amended to read as follows:

(a-1)  A utility may not make changes in its rates except by sending by mail or e-mail a statement of intent to each ratepayer and to the regulatory authority having original jurisdiction at least 35 days before the effective date of the proposed change. The utility may send the statement of intent to a ratepayer by e-mail only if the ratepayer has agreed to receive communications electronically. The effective date of the new rates must be the first day of a billing period, and the new rates may not apply to service received before the effective date of the new rates. The statement of intent must include:

(1)  the information required by the regulatory authority's rules;

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

(A)  5,000 [~~10,000~~] gallons of water; and

(B)  10,000 [~~30,000~~] gallons of water;

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

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

SECTION 6.  Sections 13.1871(a), (b), and (d), Water Code, are amended to read as follows:

(a)  Except as provided by Sections 13.18715 and [~~Section~~] 13.1872, this section applies only to a Class B utility.

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

(1)  the information required by the regulatory authority's rules;

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

(A)  5,000 [~~10,000~~] gallons of water; and

(B)  10,000 [~~30,000~~] gallons of water;

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

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

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

SECTION 7.  Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.18715 to read as follows:

Sec. 13.18715.  CLASS C UTILITIES: STATEMENT OF INTENT TO CHANGE RATES; HEARING; DETERMINATION OF RATE LEVEL. (a)  This section applies only to a Class C utility.

(b)  A utility may not make changes in its rates except by complying with the procedures to change rates described by Section 13.1871.

(c)  Notwithstanding Section 13.1871(n), the utility may send the notice required by that subsection by mail or e-mail or may deliver a copy of the notice to the ratepayers.

SECTION 8.  The heading to Section 13.1872, Water Code, is amended to read as follows:

Sec. 13.1872.  CLASS D [~~C~~] UTILITIES: RATE ADJUSTMENT.

SECTION 9.  Section 13.1872, Water Code, is amended by amending Subsections (a) and (e) and adding Subsection (c-1) to read as follows:

(a)  This section applies only to a Class D [~~C~~] utility.

(c-1)  A utility that chooses to comply with Section 13.1871 as authorized under Subsection (c)(2) of this section may send the notice required by Section 13.1871(n) by mail or e-mail or may deliver a copy of the notice to the ratepayers.

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

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

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

[~~(A)~~]  five percent[~~; or~~

[~~(B)  the percentage increase in the price index between the year preceding the year in which the utility requests the adjustment and the year in which the utility requests the adjustment~~].

SECTION 10.  Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.1873 to read as follows:

Sec. 13.1873.  APPLICATION RULES. In adopting rules relating to the information required in an application for a Class B, Class C, or Class D utility to change rates, the utility commission shall ensure that a:

(1)  Class B utility can file a less burdensome and complex application than is required of a Class A utility; and

(2)  Class C or Class D utility can file a less burdensome and complex application than is required of a Class A or Class B utility.

SECTION 11.  Section 13.258(a), Water Code, is amended to read as follows:

(a)  Notwithstanding any other provision of this chapter, a Class A utility may apply to the utility commission for an amendment of a certificate of convenience and necessity held by a municipal utility district to allow the utility to have the same rights and powers under the certificate as the municipal utility district.

SECTION 12.  Section 5.501(c), Water Code, is amended to read as follows:

(c)  The commission by order or rule may delegate to the executive director the authority to:

(1)  receive applications and issue emergency orders under this subchapter and Section 13.041(h); and

(2)  authorize, in writing, a representative or representatives to act on the executive director's behalf under this subchapter and Section 13.041(h).

SECTION 13.  The change in law made by this Act applies only to an application for an amendment of a certificate of public convenience and necessity or an application for a rate change or adjustment filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date the application is filed, and the former law is continued in effect for that purpose.

SECTION 14.  Section 13.1872(b), Water Code, is repealed.

SECTION 15.  This Act takes effect September 1, 2019.

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I hereby certify that S.B. No. 700 passed the Senate on April 9, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 21, 2019, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 700 passed the House, with amendment, on May 17, 2019, by the following vote: Yeas 141, Nays 1, two present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor