

By: Nichols, et al.
(Geren)

S.B. No. 700

A BILL TO BE ENTITLED

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

1 certificate of public convenience and necessity to provide
2 continuous and adequate water service, sewer service, or both, if
3 the discontinuance of the service is imminent or has occurred
4 because of the retail public utility's [~~service provider's~~] actions
5 or failure to act; and

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

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

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

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

24 (i) On request by the commission, the utility commission
25 may, on an expedited basis, establish reasonable compensation for
26 the temporary service required under Subsection (h)(2) and may
27 allow the retail public utility receiving the service to make a

1 temporary adjustment to its rate structure to ensure proper
2 payment.

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

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

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

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

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

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

22 (c) To ensure that retail customers receive a higher
23 quality, more affordable, or more reliable water or sewer service,
24 to encourage regionalization, or to maintain financially stable and
25 technically sound utilities, the regulatory authority, by rule or
26 ordinance, as appropriate, may adopt specific alternative
27 ratemaking methodologies for water or sewer rates to allow for more

1 timely and efficient cost recovery. Appropriate alternative
2 ratemaking methodologies are the introduction of new customer
3 classes, the cash needs method, and phased and multi-step rate
4 changes. The regulatory authority may also adopt system
5 improvement charges that may be periodically adjusted to ensure
6 timely recovery of infrastructure investment. The utility
7 commission by rule shall establish a schedule that requires all
8 utilities that have implemented a system improvement charge
9 approved by the utility commission to make periodic filings with
10 the utility commission to modify or review base rates charged by the
11 utility [~~based on factors other than rate of return and those~~
12 ~~specified in Section 13.185~~]. Overall revenues determined
13 according to an alternative ratemaking methodology adopted under
14 this section must provide revenues to the utility that satisfy the
15 requirements of Subsection (a). The regulatory authority may not
16 approve rates under an alternative ratemaking methodology unless
17 the regulatory authority adopts the methodology before the date the
18 rate application was administratively complete.

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

21 (a-1) A utility may not make changes in its rates except by
22 sending by mail or e-mail a statement of intent to each ratepayer
23 and to the regulatory authority having original jurisdiction at
24 least 35 days before the effective date of the proposed change. The
25 utility may send the statement of intent to a ratepayer by e-mail
26 only if the ratepayer has agreed to receive communications
27 electronically. The effective date of the new rates must be the

1 first day of a billing period, and the new rates may not apply to
2 service received before the effective date of the new rates. The
3 statement of intent must include:

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

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

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

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

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

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

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

18 (a) Except as provided by Sections 13.18715 and [~~Section~~]
19 [13.1872](#), this section applies only to a Class B utility.

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

1 service received before the effective date of the new rates. The
2 statement of intent must include:

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

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

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

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

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

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

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

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

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

6 (b) A utility may not make changes in its rates except by
7 complying with the procedures to change rates described by Section
8 13.1871.

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

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

14 Sec. 13.1872. CLASS D [€] UTILITIES: RATE ADJUSTMENT.

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

18 (a) This section applies only to a Class D [€] utility.

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

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

26 (1) include standard language to be included in the
27 notice described by Subsection (c)(1) describing the rate

1 adjustment process; and

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

5 ~~[(A)] five percent[, or~~

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

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

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

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

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

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

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

1 SECTION 12. The change in law made by this Act applies only
2 to an application for an amendment of a certificate of public
3 convenience and necessity or an application for a rate change or
4 adjustment filed on or after the effective date of this Act. An
5 application filed before the effective date of this Act is governed
6 by the law in effect on the date the application is filed, and the
7 former law is continued in effect for that purpose.

8 SECTION 13. Section [13.1872\(b\)](#), Water Code, is repealed.

9 SECTION 14. This Act takes effect September 1, 2019.