By:  Nichols S.B. No. 997

A BILL TO BE ENTITLED

AN ACT

relating to procedural requirements for the review of a contractual rate charged for the furnishing of raw or treated water or water or sewer service.

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

SECTION 1.  Section 12.013, Water Code, is amended by adding Subsections (g), (h), (i), (j), (k), and (l) to read as follows:

(g)  In a proceeding under this section or Chapter 11 to review a rate charged under a written contract, the utility commission may not hold a hearing on or otherwise prescribe just and reasonable amounts to be charged under the contract unless the utility commission determines that the amount charged under the contract harms the public interest. A determination under this subsection becomes final for purposes of appeal in the manner provided by Section 2001.144, Government Code.

(h)  A party adversely affected by a determination under Subsection (g) may seek judicial review of the determination. Judicial review of a determination under Subsection (g) shall be by trial de novo.

(i)  The utility commission shall abate proceedings on the contract in the event of an appeal under Subsection (h) until the entry of a final judicial determination that a rate charged under the contract harms the public interest.

(j)  Chapter 2001, Government Code, applies to an appeal under Subsection (h).

(k)  The utility commission shall, before holding a hearing on or otherwise prescribing a just and reasonable rate to be charged under the contract, allow the contracting parties to amend the amount charged under the contract until at least 60 days after the date:

(1)  of a final judicial determination in an appeal under Subsection (h) that a rate charged under the contract harms the public interest; or

(2)  the determination made under Subsection (g) became final if a motion for rehearing was not filed on time.

(l)  If the parties amend their contract under Subsection (k), a party may challenge before the utility commission the rate paid under the amended contract only:

(1)  after the 5th anniversary of the date of the contract amendment; or

(2)  during a period agreed to by the parties that begins after the 5th anniversary of the date of the contract amendment and ends on or before the 25th anniversary of that date.

SECTION 2.  Subchapter C, Chapter 13, Water Code, is amended by adding Section 13.0431 to read as follows:

Sec. 13.0431.  APPEALS BY RETAIL PUBLIC UTILITIES. (a) In an appeal under Section 13.043(f) on the amount paid for water or sewer service under a written contract, the utility commission may not hold a hearing on or otherwise prescribe just and reasonable amounts to be charged under the contract unless the utility commission determines that the amount charged under the contract harms the public interest. A determination under this subsection becomes final for purposes of appeal in the manner provided by Section 2001.144, Government Code.

(b)  A party adversely affected by a determination under Subsection (a) may seek judicial review of the determination. Judicial review of a determination under Subsection (a) shall be by trial de novo.

(c)  The utility commission shall abate proceedings on the contract in the event of an appeal under Subsection (b) until the entry of a final judicial determination that a rate charged under the contract harms the public interest.

(d)  Chapter 2001, Government Code, applies to an appeal under Subsection (b).

(e)  The utility commission shall, before holding a hearing on or otherwise prescribing a just and reasonable rate to be charged under the contract, allow the contracting parties to amend the amount charged under the contract until at least 60 days after the date:

(1)  of a final judicial determination in an appeal under Subsection (b) that a rate charged under the contract harms the public interest; or

(2)  the determination made under Subsection (a) became final if a motion for rehearing was not filed on time.

(f)  If the parties amend their contract under Subsection (e), a party may challenge before the utility commission the rate paid under the amended contract only:

(1)  after the 5th anniversary of the date of the contract amendment; or

(2)  during a period agreed to by the parties that begins after the 5th anniversary of the date of the contract amendment and ends on or before the 25th anniversary of that date.

SECTION 3.  The changes in law made by this Act apply only to a rate proceeding under Chapter 11, 12, or 13, Water Code, that begins on or after the effective date of this Act. A rate proceeding that begins before the effective date of this Act is governed by the law in effect on the date the rate proceeding began, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2021.