

By: Lucio III

H.B. No. 1435

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a certificate of public convenience and necessity to
3 provide water or sewer service in an area incorporated or annexed by
4 a municipality.

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

6 SECTION 1. Section 13.255, Water Code, is amended by
7 amending Subsection (c) and adding Subsection (c-1) to read as
8 follows:

9 (c) The utility commission shall make an express finding of
10 whether the retail public utility is capable of providing
11 continuous and adequate service to the incorporated or annexed
12 area. The finding must be based solely on information provided by
13 the municipality and the retail public utility. The utility
14 commission may grant single certification to the municipality only
15 if the utility commission makes a finding under this subsection
16 that the municipality demonstrated that the retail public utility
17 is not capable of providing continuous and adequate service to the
18 incorporated or annexed area. If the [The] utility commission
19 grants single certification to the municipality, the utility
20 commission shall ~~[also determine whether single certification as~~
21 ~~requested by the municipality would result in property of a retail~~
22 ~~public utility being rendered useless or valueless to the retail~~
23 ~~public utility, and shall]~~ determine in its order the monetary
24 amount that is adequate and just to compensate the retail public

1 utility for any of the retail public utility's ~~[such]~~ property that
2 is affected by the single certification. If the municipality in its
3 application has requested the transfer of specified property of the
4 retail public utility to the municipality or to a franchised
5 utility, the utility commission shall also determine in its order
6 the adequate and just compensation to be paid for such property
7 pursuant to the provisions of this section, including an award for
8 damages to property remaining in the ownership of the retail public
9 utility after single certification. The order of the utility
10 commission shall not be effective to transfer property. A transfer
11 of property may ~~[only]~~ be obtained under this section only by a
12 court judgment rendered under ~~[pursuant to]~~ Subsection (d) or (e).
13 The grant of single certification by the utility commission takes
14 ~~[shall go into]~~ effect on the date the municipality or franchised
15 utility, as the case may be, pays adequate and just compensation
16 pursuant to court order, or pays an amount into the registry of the
17 court or to the retail public utility under Subsection (f). If the
18 court judgment provides that the retail public utility is not
19 entitled to any compensation, the grant of single certification
20 takes ~~[shall go into]~~ effect when the court judgment becomes final.
21 The municipality or franchised utility must provide to each
22 customer of the retail public utility being acquired an individual
23 written notice within 60 days after the effective date for the
24 transfer specified in the court judgment. The notice must clearly
25 advise the customer of the identity of the new service provider, the
26 reason for the transfer, the rates to be charged by the new service
27 provider, and the effective date of those rates.

1 (c-1) Before filing an appeal under Subsection (e), the
2 retail public utility may appeal to the utility commission in a
3 separate hearing before the utility commission a final order of the
4 utility commission issued under Subsection (c).

5 SECTION 2. The changes in law made by this Act apply only to
6 a proceeding affecting a certificate of public convenience and
7 necessity that commences on or after the effective date of this Act.
8 A proceeding affecting a certificate of public convenience and
9 necessity that commenced before the effective date of this Act is
10 governed by the law in effect on the date the proceeding is
11 commenced, and that law is continued in effect for that purpose.

12 SECTION 3. This Act takes effect September 1, 2021.