

By: Nichols

S.B. No. 997

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to procedural requirements for the review of a contractual  
3 rate charged for the furnishing of raw or treated water or water or  
4 sewer service.

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

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

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

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

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

24 (j) Chapter [2001](#), Government Code, applies to an appeal

1 under Subsection (h).

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

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

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

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

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

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

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

22 Sec. 13.0431. APPEALS BY RETAIL PUBLIC UTILITIES. (a) In  
23 an appeal under Section 13.043(f) on the amount paid for water or  
24 sewer service under a written contract, the utility commission may  
25 not hold a hearing on or otherwise prescribe just and reasonable  
26 amounts to be charged under the contract unless the utility  
27 commission determines that the amount charged under the contract

1 harms the public interest. A determination under this subsection  
2 becomes final for purposes of appeal in the manner provided by  
3 Section 2001.144, Government Code.

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

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

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

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

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

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

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

27 (1) after the 5th anniversary of the date of the

1 contract amendment; or

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

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

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