By: Lucio S.B. No. 2114

A BILL TO BE ENTITLED

AN ACT

relating to a certificate of public convenience and necessity to provide water or sewer service in an area incorporated or annexed by a municipality.

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

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

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

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

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

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

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