

By: Perry, Eckhardt, West

S.B. No. 740

A BILL TO BE ENTITLED

AN ACT

relating to certain proceedings by the Public Utility Commission of Texas regarding 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 adding Subdivision (16-a) to read as follows:

(16-a) "Public utility agency" means a public utility agency created under Chapter 572, Local Government Code.

SECTION 2. Section 13.183, Water Code, is amended by amending Subsection (c) and adding Subsections (c-1), (c-2), (c-3), and (c-4) to read as follows:

(c) To ensure that retail customers receive a higher quality, more affordable, or more reliable water or sewer service, to encourage regionalization, or to maintain financially stable and technically sound utilities, the regulatory authority, by rule or ordinance, as appropriate, may adopt specific alternative ratemaking methodologies for water or sewer rates to allow for more timely and efficient cost recovery. Appropriate alternative ratemaking methodologies are the introduction of new customer classes, the cash needs method, and phased and multi-step rate changes. The regulatory authority may also adopt system improvement charges that may be periodically adjusted to ensure timely recovery of infrastructure investment. If the utility commission is the appropriate regulatory authority, the utility

1 commission shall enter a final order on a request for a system
2 improvement charge under this subsection not later than the 60th
3 day after the date the utility commission determines that a
4 complete application for a system improvement charge has been
5 filed. The utility commission may extend the deadline for not more
6 than 15 days for good cause. The utility commission by rule shall
7 establish a schedule that requires all utilities that have
8 implemented a system improvement charge approved by the utility
9 commission to make periodic filings with the utility commission to
10 modify or review base rates charged by the utility. Overall
11 revenues determined according to an alternative ratemaking
12 methodology adopted under this section must provide revenues to the
13 utility that satisfy the requirements of Subsection (a). The
14 regulatory authority may not approve rates under an alternative
15 ratemaking methodology unless the regulatory authority adopts the
16 methodology before the date the rate application was
17 administratively complete.

18 (c-1) The utility commission shall by rule:

19 (1) establish the information required for an
20 application for a system improvement charge to be considered
21 complete by the utility commission under this section, which must
22 include the documentation listed in Subsection (c-2); and

23 (2) prescribe a standard form for an application to
24 the utility commission for a system improvement charge under
25 Subsection (c).

26 (c-2) An application for a system improvement charge under
27 Subsection (c) may not be considered complete by the utility

commission unless, to substantiate each claimed eligible cost of a utility's eligible plant that is not already included in the applying utility's rates, the application includes:

(1) receipts;

(2) invoices;

(3) contracts; or

(4) other documentation of eligible costs.

(c-3) An application for a system improvement charge under Subsection (c) may not be considered complete by the utility commission before the 30th day after the date the application is filed with the utility commission.

(c-4) At the time an applicant files an application for a system improvement charge under Subsection (c) with the utility commission, the applicant shall provide a copy of the application to the Office of Public Utility Counsel. The utility commission shall allow the office to comment on the application not later than the 30th day after the date the application is filed. The utility commission shall provide to the office, at no cost and in electronic form, any data related to the application held by the commission. Information provided to the office under this subsection that is confidential and not subject to disclosure by the utility commission under Chapter 552, Government Code, or other law is confidential and not subject to disclosure by the office.

SECTION 3. Section 13.301(1), Water Code, is amended to read as follows:

(1) Notwithstanding any other provision of this section or Section 13.302, the utility commission by rule shall adopt a an ~~an~~

~~expedited]~~ process to expedite an application for the acquisition of the stock or ownership interest under Section 13.302, or of assets under this section, of a utility in receivership under Section 13.412, a utility in supervision under Section 13.4131, or a utility in temporary management under Section 13.4132, and, if applicable, its certificated service area, by a Class A or Class B utility. The applicant must have been appointed as a temporary manager or supervisor for the utility by the utility commission or commission or have been appointed as a receiver for the utility at the request of the utility commission or commission before filing the application ~~[that allows a person appointed by the utility commission or commission under Section 13.4132 as a temporary manager of a utility, utility in receivership, or utility in supervision, who is also an operator of a Class A or Class B utility to apply for utility commission approval of the person's acquisition of the stock, ownership interest, or assets of the temporarily managed and operated utility, utility in receivership, or utility in supervision, its facilities, and, if applicable, its certificated service area]~~. The ~~[expedited]~~ process must:

(1) waive public notice requirements regardless of whether the applicant ~~[person]~~ elects to charge initial rates in accordance with Section 13.3011 or use a voluntary valuation determined under Section 13.305;

(2) require approval of the acquisition transaction if the transaction is considered to be in the public interest; and

(3) provide that:

(A) the applicant's ~~[person's]~~ appointment is

considered sufficient to demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the service area to be acquired and any areas currently certificated to the applicant ~~[person]~~; and

(B) all used and useful invested capital and just and reasonable operations and maintenance costs incurred by the applicant ~~[person]~~ during the applicant's ~~[person's]~~ appointment as temporary manager and operator of the utility, utility in receivership, or utility in supervision to be acquired are considered to be a regulatory asset for the applicant ~~[person]~~ and are recoverable in the applicant's ~~[person's]~~ next comprehensive rate proceeding or system improvement charge application.

SECTION 4. Subchapter H, Chapter 13, Water Code, is amended by adding Section 13.3021 to read as follows:

Sec. 13.3021. SALES, TRANSFERS, AND MERGERS FOR CERTAIN RETAIL PUBLIC UTILITIES. (a) The utility commission by rule shall adopt an expedited process to authorize a municipally owned utility, a county, a water supply or sewer service corporation, a public utility agency, or a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, to acquire the stock or ownership interest under Section 13.302, or assets under Section 13.301, of a utility in receivership under Section 13.412, a utility in supervision under Section 13.4131, or a utility in temporary management under Section 13.4132, and, if applicable, its certificated service area, in the manner provided by Sections 13.301 and 13.302.

(b) The municipally owned utility, county, water supply or

1 sewer service corporation, public utility agency, district, or
2 authority must have been appointed as a temporary manager or
3 supervisor for the utility by the utility commission or commission
4 or as a receiver for the utility at the request of the utility
5 commission or commission before filing an acquisition application
6 under this section.

7 (c) The process must:

8 (1) be based on the expedited process adopted under
9 Section 13.301(1), except for any aspects of the process that
10 cannot be applied to an entity over which the utility commission
11 does not have original rate jurisdiction;

12 (2) waive public notice requirements;

13 (3) require approval of the acquisition transaction if
14 the transaction is considered to be in the public interest; and

15 (4) provide that the municipally owned utility's,
16 county's, water supply or sewer service corporation's, public
17 utility agency's, district's, or authority's appointment is
18 considered sufficient to demonstrate adequate financial,
19 managerial, and technical capability for providing continuous and
20 adequate service to the service area to be acquired and any areas
21 currently certificated to the municipally owned utility, county,
22 corporation, public utility agency, district, or authority.

23 SECTION 5. Section 13.412(g), Water Code, is amended to
24 read as follows:

25 (g) Notwithstanding Section 64.021, Civil Practice and
26 Remedies Code, a receiver appointed under this section may:

27 (1) be a person, a municipally owned utility, a

1 county, a water supply or sewer service corporation, a public
2 utility agency, or a district or authority created under Section
3 52, Article III, or Section 59, Article XVI, Texas Constitution;
4 and

5 (2) seek approval from the utility commission and the
6 commission to acquire the water or sewer utility's facilities and
7 transfer the utility's certificate of convenience and necessity.
8 The receiver must apply in accordance with Subchapter H.

9 SECTION 6. Section 13.4132, Water Code, is amended by
10 amending Subsection (a) and adding Subsection (a-1) to read as
11 follows:

12 (a) The utility commission or the commission, after
13 providing to the utility notice and an opportunity to be heard by
14 the commissioners at a utility commission or commission meeting,
15 may authorize a willing person, municipally owned utility, county,
16 water supply or sewer service corporation, public utility agency,
17 or district or authority created under Section 52, Article III, or
18 Section 59, Article XVI, Texas Constitution, to temporarily manage
19 and operate a utility if the utility:

20 (1) has discontinued or abandoned operations or the
21 provision of services;

22 (2) has been or is being referred to the attorney
23 general for the appointment of a receiver under Section 13.412; or

24 (3) provides retail water or sewer utility service
25 through fewer than 10,000 taps or connections and violates a final
26 order of the commission by failing to:

27 (A) provide system capacity that is greater than

1 the required raw water or groundwater production rate or the
2 anticipated daily demand of the system;

3 (B) provide a minimum pressure of 35 pounds per
4 square inch throughout the distribution system under normal
5 operating conditions; or

6 (C) maintain accurate or properly calibrated
7 testing equipment or other means of monitoring the effectiveness of
8 a chemical treatment or pathogen inactivation or removal process.

9 (a-1) For the purposes of this section, a reference to a
10 person includes a municipally owned utility, county, water supply
11 or sewer service corporation, public utility agency, or district or
12 authority created under Section 52, Article III, or Section 59,
13 Article XVI, Texas Constitution.

14 SECTION 7. (a) The Public Utility Commission of Texas shall
15 adopt the rules required by Section 13.183(c-1), Water Code, as
16 added by this Act, not later than September 1, 2026.

17 (b) Section 13.183(c), Water Code, as amended by this Act,
18 and Section 13.183(c-2), Water Code, as added by this Act, apply
19 only to an application for system improvement charges received by
20 the Public Utility Commission of Texas on or after September 1,
21 2026. An application for system improvement charges received
22 before September 1, 2026, is governed by the law in effect on the
23 date the application is filed, and the former law is continued in
24 effect for that purpose.

25 SECTION 8. This Act takes effect September 1, 2025.