By: Perry S.B. No. 354

A BILL TO BE ENTITLED

AN ACT

relating to certain proceedings by the Public Utility Commission of Texas and regulatory authorities regarding water and sewer utilities.

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

SECTION 1. Section 13.183, Water Code, is amended by adding Subsections (c-5) and (c-6) to read as follows:

(c-5) If the utility commission determines that an application for a system improvement charge under Subsection (c) is incomplete after the 30th day after the date the application is filed with the utility commission, the utility commission shall return the application to the applicant for revision. A revised application submitted to the utility commission after a finding that the original application is administratively incomplete is considered a new application.

(c-6) If the utility commission does not enter a final order on a request for a system improvement charge under Subsection (c) during the period required by that subsection, the request is considered approved.

SECTION 2. Section 13.185(d), Water Code, is amended to read as follows:

(d) Net income is the total revenues of the utility less all reasonable and necessary expenses as determined by the regulatory authority. The regulatory authority shall:

(1) base a utility's expenses on test year information, as determined by utility commission rules; [~~and~~]

(2) determine expenses and revenues in a manner consistent with Subsections (e) through (h)<u>; and</u>

<u>(3) presume that expenses related to the compensation and benefits provided by a utility to the utility's employees, including base salaries, wages, incentive compensation, and non-salary benefits, are reasonable and necessary if the compensation and benefits are consistent with market studies issued not earlier than three years before the initiation of the rate proceeding during which the regulatory authority is determining those expenses</u> [~~of this section~~].

SECTION 3. Sections 13.187(d), (d-1), (e), (f), and (i), Water Code, are amended to read as follows:

(d) <u>Not later than the 30th day after the date the application or statement of intent is filed, the regulatory authority shall determine whether</u> [~~Except as provided by Subsections (d-1) and (e), if~~] the application or the statement of intent is [~~not~~] substantially complete <u>and complies</u> [~~or does not comply~~] with the regulatory authority's rules<u>. If the regulatory authority determines that the application or statement of intent is deficient, the regulatory authority may reject the application or, in addition to the suspension periods under Subsections (d-1) and (e), suspend</u> [~~, it may be rejected and~~] the effective date of the rate change <u>for not more than 30 days to allow</u> [~~may be suspended until~~] a properly completed application [~~is accepted by the regulatory authority~~] and a proper statement of intent <u>to be</u>

provided [~~is provided~~]. The utility commission may also suspend the effective date of any rate change if the utility does not have a certificate of public convenience and necessity or a completed application for a certificate or to transfer a certificate pending before the utility commission or if the utility is delinquent in paying the assessment and any applicable penalties or interest required by Section 5.701(n).

(d-1) After written notice to the utility, a local regulatory authority may suspend the effective date of a rate change for not more than 90 days from the proposed effective date. If the local regulatory authority does not make a final determination on the proposed rate before the expiration of the suspension period, the proposed rate shall be considered approved and is not subject to further processing or revision by the local regulatory authority. This approval is subject to the authority of the local regulatory authority thereafter to continue a hearing in progress.

(e) After written notice to the utility, the utility commission may suspend the effective date of a rate change for not more than 150 days from the proposed effective date. If the utility commission does not make a final determination on the proposed rate before the expiration of the suspension period, the proposed rate shall be considered approved and is not subject to further processing or revision by the utility commission. This approval is subject to the authority of the utility commission thereafter to continue a hearing in progress.

(f) The regulatory authority shall, not later than the 60th

[~~30th~~] day after the effective date of the change, begin a hearing to determine the propriety of the change. If the regulatory authority is the utility commission, the utility commission may refer the matter to the State Office of Administrative Hearings as provided by utility commission rules. If the utility commission refers the matter to the State Office of Administrative Hearings, the State Office of Administrative Hearings shall begin a hearing to determine the propriety of the change not later than the 60th day after the effective date of the change.

(i) A utility may put a changed rate into effect throughout the area in which the utility sought to change its rates, including an area over which the utility commission is exercising appellate or original jurisdiction, during a suspension period that has been extended under Subsection (e-1) by filing a bond with the utility commission [~~if the suspension period has been extended under Subsection (e-1) and the utility commission fails to make a final determination before the 151st day after the date the rate change would otherwise be effective~~].

SECTION 4. Section 13.301, Water Code, is amended by amending Subsections (e) and (g) and adding Subsection (g-1) to read as follows:

(e) Before the expiration of the 120-day notification period, the utility commission shall notify all known parties to the transaction and the Office of Public Utility Counsel whether the utility commission will hold a public hearing to determine if the transaction will serve the public interest. The utility commission may hold a hearing only if:

(1) the application filed with the utility commission or the public notice was improper;

(2) the person purchasing or acquiring the water or sewer system has not demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the service area being acquired and to any areas currently certificated to the person;

(3) the person or an affiliated interest of the person purchasing or acquiring the water or sewer system has a history of:

(A) noncompliance with the requirements of the utility commission, the commission, or the Department of State Health Services; or

(B) continuing mismanagement or misuse of revenues as a utility service provider;

(4) the person purchasing or acquiring the water or sewer system cannot demonstrate the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to the customers of the water or sewer system; or

(5) there are concerns that the transaction may not serve the public interest, after the application of the considerations provided by Section 13.246(c) for determining whether to grant a certificate of convenience and necessity.

(g) Subject to Subsection (g-1), if [~~If~~] the utility commission decides to hold a hearing under Subsection (e) or if the utility or water supply or sewer service corporation fails to make the application as required or to provide public notice, the sale,

acquisition, lease, or rental may not be completed unless the utility commission determines that the proposed transaction serves the public interest.

(g-1) If the utility commission decides to hold a public hearing under Subsection (e), the utility commission shall issue a final order not later than the 150th day after the date the utility or water supply or sewer service corporation files the written application with the utility commission under Subsection (a). If a final determination is not issued by the 150th day after the date a utility or a water supply or sewer service corporation files the written application, the transaction is considered approved and may be completed.

SECTION 5. Section 13.3011, Water Code, is amended by adding Subsection (c) to read as follows:

(c) In establishing initial rates, the regulatory authority shall presume that rates meeting the requirements of Subsection (a) are just, reasonable, and in the public interest.

SECTION 6. The changes in law made by this Act apply only to a rate proceeding under Chapter 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 7. This Act takes effect September 1, 2027.