

PUC SUNSET LEGISLATION
ARTICLE 2 UTILITY RATES/CCN TRANSFER
SB661 BY NICHOLS, as Introduced

Section 2.01

- Defines that “Utility Commission” means the Public Utility Commission of Texas.
- Adds utility commission to the definition of other agencies with “Regulatory Authority”.

Section 2.02

- Expands the jurisdiction over certain water supply or sewer service corporations to include the utility commission.

Section 2.03

- Expands that the utility commission, in addition to the commission, shall employ personnel as necessary to carry out each agency’s powers and duties under this chapter.
- States that the executive director and utility commission’s staff, are responsible for gathering of information relating to all matters within the jurisdiction of the utility commission under this subchapter.
- Updates the list of duties of the respective executive directors and their staffs.

Section 2.04

- Expands to include representing the utility commission as well as the commission among the duties of the Attorney General.

Section 2.05

- Amends the powers and duties of OPUC to represent the interests of residential and small commercial consumers under Chapter 13.
- Adds a list of duties OPUC will assume, specifically, assessing, advocating, intervening, representing, and recommending legislation on behalf of consumers.

Section 2.06

- Amends and clarifies the powers of the utility commission and the commission as they relate to rules and hearings.
- The utility commission may regulate and supervise each water and sewer utility within its jurisdiction to include ratemaking and economic regulation.
- The commission may regulate water sewer utilities within its jurisdiction to ensure safe drinking water and environmental protection.
- The utility commission may consult with the commission as necessary to carry out its duties related to water and sewer regulation.
- Amends wording to clarify what duties and powers shift to the utility commission versus the commission.

Section 2.07

- Transfers the jurisdiction of a municipality original and appellate jurisdiction to the utility commission.

Section 2.08

- Transfers the appeal of any party in a rate proceeding to the utility commission.

Section 2.09

- Transfers the appeal of rates imposed by a municipality by filing a petition with the utility commission.

Section 2.10

- Moves temporary rates for services provided for a nonfunctioning system and sanctions for noncompliance to the utility commission.
- Makes the utility commission responsible for establishing a procedure that allows a retail public utility to take over a nonfunctioning system.

Section 2.11

- States that franchise agreements shall not limit or interfere with any power conferred on the utility commission.

Section 2.12

- Moves local utility service and exempt and nonexempt areas jurisdiction to the utility commission.

Section 2.13

- Transfers the assistance function to the utility commission; specifically, providing assistance and advice upon request.

Section 2.14

- States that the utility commission has the jurisdiction to enforce Section 13.087(c) of this section relating to recreational vehicle parks.

Section 2.15

- Transfer to the utility commission the authority to dictate the prescribed manner and forms that all water and sewer utilities shall use to keep all accounts of business transacted.

Section 2.16

- Transfers the list of powers to the utility commission.

Section 2.17

- Amends the water code to clarify that the regulatory authority may require, by order or subpoena, copies of any records. This expands the section to include both the commission and the utility commission.

Section 2.18

- Requires that each utility annually file a service and financial report to the utility commission.

Section 2.19

- Amends that all utilities shall have an office with information dictated by the utility commission in the county or immediate area of its property.
- Transfers the waiver authorization for the above to the utility commission.

Section 2.20

- Clarifies that both the commission and utility commission as regulatory agencies, after reasonable notice and hearing, may fix just and reasonable standards for a list of practices, service, rules, standards, etc.

Section 2.21

- Indicates that the commission shall coordinate with the utility commission in the administration of Section 13.1395 relating to standards of emergency operation.

Section 2.22

- Directs that the utility commission shall adopt rules concerning payment of utility bills.

Section 2.23

- Provides that the utility commission shall be provided a copy of a contract relating to wholesale water supply.

Section 2.24

- Transfers to the utility commission the authority to issue an order requiring water service providers to provide the service of billing and collecting sewer service fees and payments.

Section 2.25

- Transfers to the utility commission the authority and power to ensure compliance relating to the fixing and regulation of rates, including rules and regulations for determining classification and applicability.

Section 2.26

- The utility commission now has authority for ratemaking purposes to treat two or more municipalities served by a utility as a single class.
- The utility commission, by rule, now shall establish a preference that rates under a consolidated tariff be determined on a case-by-case basis.

Section 2.27

- States that no regulatory authority, other than the utility commission, may not approve an acquisition adjustment for a system.

Section 2.28

- States that only the utility commission may establish alternative rate methodologies through rulemaking.

Section 2.29

- Provides the utility commission with the authority to suspend the effective date of any rate change under certain conditions and set interim rates.

Section 2.30

- Transfers to the utility commission the authority to adopt by rule a procedure allowing a utility to file an application to timely adjust the utility's rates, including any conditions or circumstances that may apply.

Section 2.31

- Transfers to the utility commission the authority to determine whether it should grant or amend a CCN, confirming that financial, managerial, and technical capabilities exist.

Section 2.32

- Provides the utility commission with the authority to issue a certificate that allows a water or sewer utility to render water supply or sewer service.
- Provides that the utility commission may by rule allow a municipality or utility or water supply to render retail water service without a CCN if the municipality gives notice that they have less than 15 potential connections and is not within another utility's area.

Section 2.33

- States CCNs will be obtained, amended and applied for from the utility commission, including the maps showing all facilities, customers and the area to be served.

Section 2.34

- Transfers to the utility commission the conditions under which it may not grant a CCN to a retail public utility (specifically within a municipality's boundaries).

Section 2.35

- Transfers to the utility commission the authority to decertify an area outside a municipality's ETJ if it does not provide service to that area on or before the 5th anniversary of the date the CCN was granted for the area.

Section 2.36

- Outlines notice requirements assumed by the utility commission relating to CCN applications or amendments, and issuance.
- Outlines the conditions that have transferred to the utility commission associated with and relating to CCN issuance.

Section 2.37

- States that a municipally owned or operated utility must obtain from the utility commission a CCN to operate in an area that is within the boundaries of another municipality.

Section 2.38

- Transfers the approval authority to the utility commission for contracts between retail utilities and customers to be served.

Section 2.39

- Provides the utility commission with the conditions under which it may issue a certificate that no longer requires continued service to an area when future convenience and necessity will not be adversely impacted.
- Expands the requirement for notice of bankruptcy by a utility to both the utility commission and the commission.

Section 2.40

- Amends the water code to state that Section 13.2502 (d) does not limit or extend the jurisdiction of the utility commission under Section 13.043(g) relating to applicant for service appeals.

Section 2.41

- Transfers to the utility commission the authority to prescribe the conditions for sale, assignment, or lease of certificates.

Section 2.42

- Transfers to the utility commission the authority to issue an order prohibiting the construction, extension or provision of service into another retail public utility's area.

Section 2.43

- Provides, after notice and hearing, the conditions under which the utility commission may improve service or interconnect service.

Section 2.44

- Provides, after notice and hearing, the utility commission with the authority to revoke or amend any CCN with the written consent of the certificate holder, or the conditions when the utility commission can act without written consent, and all activities related to this.

Section 2.45

- Transfers to the utility commission the authority for franchised agreements associated with the incorporation and annexation of areas, and all activities related to this.

Section 2.46

- Transfers to the utility commission the authority to issue an order relating to completion of decertification or single certification, and the conditions to provide service to such an area.

Section 2.47

- Provides the requirement for a utility service seller to give notice to the prospective system purchaser and the utility commission, lays out the conditions and process for failing to do so properly, and all activities related to this.

Section 2.48

- Transfers to the utility commission the conditions related to sale, acquisition, lease, or rental of a utility, including compliance with the 120 day notice period, the requirement to possess a CCN, the requirement to file a written application, or the need to receive a waiver of public notice by the ED of the utility commission.
- Transfers to the utility commission all the requirements relating to a person purchasing or acquiring the utility.

Section 2.49

- Transfers the requirements, conditions and report of the purchase of voting stock in another public utility to the utility commission.

Section 2.50

- Transfers to the utility commission the prohibition to loan money, stocks, bonds, notes, or other evidence of indebtedness to person or corporation unless the utility reports that transaction to the utility commission within 60 days after the date of transaction.

Section 2.51

- Expands the reporting of foreclosure by the utility to both the utility commission and the commission.
- Expands the reporting of the foreclosure by the financial institution to both the utility commission and the commission.
- Transfers to the utility commission the prescribed conditions for allowing the financial institution to operate the utility for an interim period.

Section 2.52

- Transfers the jurisdiction of affiliated interests to the utility commission.

Section 2.53

- Transfers to the utility commission the requirement to disclose substantial interest in voting securities, specifically identity and respective interests of every owner.

Section 2.54

- Transfers the authority to allow the purchasing wholesale water service to the utility commission.

Section 2.55

- Expands to both the utility commission and the commission the rights of any party to receive a judicial review under the substantial evidence rule.

Section 2.56

- Transfers the requirement to the utility commission to reimburse a party for reasonable attorney's fees, expert witnesses and other costs incurred by the party.

Section 2.57

- Expands to include the utility commission in the actions to enjoin or require compliance when it is believed that violations of this chapter or any order or rule of the utility commission or commission has occurred.

Section 2.58

- Transfers to the utility commission the actions to require adjustment to consumer charges.

Section 2.59

- Expands to include the utility commission in the ability to request that the AG bring suit for the appointment of a receiver to collect the assets and carry on the business of a utility; lists the conditions.

Section 2.60

- Expands to include both the utility commission and the commission in the payment of costs of receivership relating to a final order.

Section 2.61

- Transfers the supervision of certain utilities to the utility commission, including notice, hearings, rules, conditions, and requirements.

Section 2.62

- Transfer to the utility commission the ability to authorize an emergency rate increase.

Section 2.63

- Transfer to the utility commission the ability to impose a penalty for violations of Chapter 13, including requesting the AG to institute a suit on behalf of the utility commission.

Section 2.64

- Expands to provide both the utility commission and the commission with the ability to assess a penalty and the conditions to determine the amount of the penalty; and all activities related to this process.

Section 2.65

- Transfers to the utility commission the ability to initiate contempt proceedings if the utility fails to comply with any lawful order.

Section 2.66

- Moves the disposition of fines and penalties to the water utility improvement account or the general revenue fund depending on the type of entity being fined.

Section 2.67

- Modifies the definition of “multiple use facility” to include any facilities specifically identified by the utility commission.

Section 2.68

- Moves to the utility commission the authority to change submetered billing to allocated billing based on good cause.

Section 2.69

- Transfers to the utility commission the requirement to encourage submetering of individual rental or dwelling units, and requires rules and standards.

Section 2.70

- Transfers to the utility commission the requirement to adopt rules and standards relating to billing systems for nonmetered master metered utility service costs.

Section 2.71

- Transfers to the utility commission enforcement authority for multiple use facilities that violates utility commission rules relating to submetering of service.

Section 2.72

- Transfers to the utility commission the receipt of contracts dealing with privatization, for information purposes only.

Section 2.73

- Transfers to the utility commission the receipt of notice in writing of an entity entering into a privatization contract and by so doing exempt the service provider from utility commission jurisdiction.

Section 2.74

- Lists the activities that will transfer from TCEQ to PUC; sets the date.
- Requires the development of an MOU that TCEQ and PUC will enter into.
- Appoints a transition team to establish guidelines for cooperation; provides a date.
- States that rules, policies, procedures, etc at the TCEQ shall remain in effect until amended or replaced by PUC; provides a date.

Section 2.75

- **Requires the PUC to conduct a comparative analysis for ratemaking authority of the TCEQ prior to the effective date of the act.**
- **Requires the PUC to prepare a report describing staffing changes related to the transition, including reductions that may be realized as a result of consolidated functions.**