

SUBCHAPTER F: QUALITY OF SERVICE

§§291.91 - 291.95 Effective October 19, 2000

§291.91. Applicability.

Except where otherwise noted, this chapter applies to retail public utilities as defined by §291.3 of this title (relating to Definitions of Terms) which possess or are required to possess a Certificate of Convenience and Necessity.

Adopted December 6, 1995

Effective January 10, 1996

§291.92. Requirements by Others.

(a) The application of commission rules shall not relieve the retail public utility from abiding by the requirements of the laws and regulations of the state, local department of health, local ordinances, and all other regulatory agencies having jurisdiction over such matters.

(b) The commission's rules in this chapter relating to rates, records and reporting, customer service and protection and quality of service shall apply to utilities operating within the corporate limits of a municipality exercising original rate jurisdiction, unless the municipality adopts its own rules.

Adopted December 6, 1995

January 10, 1996

§291.93. Adequacy of Water Utility Service.

Sufficiency of service. Each retail public utility which provides water service shall plan, furnish, operate, and maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all reasonable consumer uses.

(1) The water system quantity and quality requirements of the commission shall be the minimum standards for determining the sufficiency of production, treatment, storage, transmission, and distribution facilities of water suppliers and the safety of the water supplied for household usage. Additional capacity shall be provided to meet the reasonable local demand characteristics of the service area, including reasonable quantities of water for outside usage and livestock.

(2) In cases of drought, periods of abnormally high usage, or extended reduction in ability to supply water due to equipment failure, to comply with a state agency or court order on conservation or other reasons identified in the utility's approved drought contingency plan required by §288.20 of this title (relating to Drought Contingency Plans for Municipal Uses by Public Water Suppliers), restrictions may be instituted to limit water usage in accordance with the utility's approved drought contingency plan. For utilities, these temporary restrictions must be in accordance with an approved drought contingency plan. Unless specifically authorized by the executive director, retail public utilities may not use water use

restrictions in lieu of providing facilities which meet the minimum capacity requirements of the commission's rules in Chapter 290 of this title (relating to Rules and Regulations for Public Water Systems), or reasonable local demand characteristics during normal use periods, or when the system is not making all immediate and necessary efforts to repair or replace malfunctioning equipment.

(A) An approved drought contingency plan must be on file with the utility's approved tariff to comply with §288.20 of this title. The utility may not implement mandatory water use restrictions without an approved drought contingency plan unless authorized by the executive director.

(B) Temporary restrictions must be in accordance with the utility's approved drought contingency plan on file or specifically authorized by the executive director. The utility shall file a status report with the executive director in accordance with the requirements and time frames in the drought contingency plan for as long as water use restrictions continue or as required by the executive director. The executive director may suspend implementation of the restrictions at any time with written notice to the utility.

(C) The utility must provide written notice to each customer in accordance with the drought contingency plan prior to implementing the provisions of the plan. Mailed notice is acceptable and water use restrictions may be enforced by the utility if notice is mailed 72 hours prior to the start of rationing. If notice is hand delivered, the utility cannot enforce the provisions of the plan for 24 hours after notice is provided unless authorized by the executive director. Customer notice must contain:

- (i) the date water use restrictions are to begin;
- (ii) the expected duration of the water use restrictions;
- (iii) the restrictions or stage of the plan being implemented and the specific restrictions which apply; and
- (iv) the penalties for violations of the drought contingency plan.

(D) Notice shall be provided to the commission in accordance with §288.20(b) of this title and prior to implementing the mandatory provisions of the plan.

(3) A retail public utility that possesses a certificate of public convenience and necessity that has reached 85% of its capacity as compared to the most restrictive criteria of the commission's minimum capacity requirements in Chapter 290 of this title shall submit to the executive director a planning report that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area. A report is not required if the source of supply available to the utility service provider is reduced to below the 85% level due to a court or agency conservation order unless that order is expected to extend for more than 18 months from the date it is entered in which case a report shall be required.

(A) After any commission field inspection, a retail public utility must analyze the system's capacity to determine if it has reached 85% of its capacity. If the retail public utility has reached 85% of its capacity, it must file this report no later than 90 days after the date of a commission letter detailing the results of the inspection. Capacity is considered to be the overall rated capacity in number of residential connection equivalents based on the most restrictive criteria for production, treatment, storage, or pumping.

(B) The report should be submitted in writing and should contain the following:

(i) a brief description of the overall utility system and service area;

(ii) an analysis of the plant capacity as defined in subparagraph (A) of this paragraph;

(iii) details on how the retail public utility will provide service to the remaining areas within the boundaries of its certificated area. This includes projections of cost and expected design and installation dates for additional facilities.

(C) The executive director may waive or limit the reporting requirements if the retail public utility demonstrates that the projected growth of the area will not require the retail public utility to exceed 100% of its current capacity for the next five years.

(D) Any retail public utility required to file reports under this section of the rules, including those requesting waivers, shall file updated reports within 90 days after the retail public utility receives a copy of each subsequent commission field inspection report until the system demand is below 85% capacity.

(E) Submission of this report shall not relieve the retail public utility from abiding by the requirements of other regulatory agencies as set forth in §291.92 of this title (relating to Requirements by Others).

(4) Each retail public utility which possesses or is required to possess a certificate of convenience and necessity shall furnish safe water which meets the minimum quality criteria for drinking water prescribed by the commission. The supply must meet the requirements of Health and Safety Code, §341.031 and commission rules. A utility or water supply corporation which is authorized to operate without a certificate of convenience and necessity pursuant to Health and Safety Code, §13.242(c) may be required by the executive director to meet the minimum criteria prescribed by the commission if so instructed in writing.

(5) In order to protect the public health at all times, each retail public utility must promptly take all reasonable actions necessary which include implementing an effective cross-connection control program necessary to comply with §290.44(h) of this title (relating to Water Distribution). If a utility elects to develop and implement a program that exceeds the minimum requirements set forth in §290.44(h) of this title, it must secure the prior approval of the executive director and may be required to

fund any expenses above the costs associated with meeting the minimum requirements without reimbursement. For example, a requirement that customers on systems without documented health hazards have backflow prevention assemblies tested on an annual basis would need to be funded by the utility without reimbursement.

(6) Every retail public utility shall maintain its facilities to protect them from contamination, ensure efficient operation, and promptly repair leaks.

Adopted September 27, 2000

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§291.94. Adequacy of Sewer Service.

(a) Sufficiency of service. Each retail public utility shall plan, furnish, operate, and maintain collection, treatment, and disposal facilities to collect, treat and dispose of waterborne human waste and waste from domestic activities such as washing, bathing, and food preparation. These facilities must be of sufficient size to meet the minimum design criteria for wastewater facilities of the commission for all normal demands for service and provide a reasonable reserve for emergencies. Unless specifically authorized in a written service agreement, a retail public utility is not required to receive, treat and dispose of waste with high BOD or TSS characteristics that cannot be reasonably processed, or storm water, run-off water, food or food scraps not previously processed by a grinder or similar garbage disposal unit, grease or oils, except as incidental waste in the process or wash water used in or resulting from food preparation by sewer utility customers engaged in the preparation and/or processing of food for domestic consumption or sale to the public. Grease and oils from grease traps or other grease and/or oil storage containers shall not be placed in the wastewater system.

(b) Sufficiency of treatment. Each retail public utility shall maintain and operate treatment facilities of adequate size and properly equipped to treat sewage and discharge the effluent at the quality required by the laws and regulations of the State of Texas.

(c) Maintenance of facilities.

(1) The retail public utility shall maintain its collection system and appurtenances to minimize blockages.

(2) If the utility retains ownership of receiving tanks located on the customer's property or other facilities and appurtenances, it is the utility's responsibility and liability to perform routine maintenance and repair.

Adopted December 6, 1995

Effective January 10, 1996

§291.95. Standards of Construction.

In determining standard practice, the commission will be guided by the provisions of the American Water Works Association, and such other codes and standards that are generally accepted by the industry,

except as modified by this commission, or municipal regulations within their jurisdiction. Each system shall construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with service furnished by other retail public utilities insofar as practical.

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