SUBCHAPTER A: GENERAL PROVISIONS
§§291.1, 291.3, 291.14, 291.15
Effective January 3, 2019

§291.1. Purpose and Scope of This Chapter.

This chapter is intended to govern the procedure for the institution, conduct and determination of commission proceedings under Texas Water Code (TWC), §§11.036 - 11.041 and Chapter 13. This chapter shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the commission or the substantive rights of any person. This chapter shall be given a fair and impartial construction to obtain these objectives and shall be applied uniformly regardless of race, color, religion, sex, or marital status.

Adopted December 12, 2018

§291.3. Definitions of Terms.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Affected county--A county to which Texas Local Government Code, Chapter 232, Subchapter B, applies.

(2) Agency--Any state board, commission, department, or officer having statewide jurisdiction (other than an agency wholly financed by federal funds, the legislature, the courts, the Texas Department of Insurance, Division of Workers' Compensation, and institutions for higher education) which makes rules or determines contested cases.

(3) Certificate of Convenience and Necessity--A permit issued by the Public Utility Commission of Texas which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer utility service to a specified geographic area.


(5) Corporation--Any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers and privileges of corporations not possessed by individuals or partnerships, but shall not include municipal corporations unless expressly provided otherwise in the Texas Water Code.
(6) Customer--Any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency provided with services by any retail public utility.

(7) Mandatory water use reduction--The temporary reduction in the use of water imposed by court order, government agency, or other authority with appropriate jurisdiction. This does not include water conservation measures that seek to reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling or reuse of water so that a water supply is made available for future or alternative uses.

(8) Nonfunctioning system--A retail public utility under the supervision of a receiver, temporary manager, or that has been referred for the appointment of a temporary manager or receiver, pursuant to §291.142 of this title (relating to Operation of Utility That Discontinues Operation or Is Referred for Appointment of a Receiver) and §291.143 of this title (relating to Operation of a Utility by a Temporary Manager).

(9) Person--Any natural person, partnership, cooperative corporation, association, or public or private organization of any character other than an agency or municipality.

(10) Potable water--Water that is used for or intended to be used for human consumption or household use.

(11) Public utility--The definition of public utility is that definition given to "Water and sewer utility" in this section.

(12) Purchased sewage treatment--Sewage treatment purchased from a source outside the retail public utility's system to meet system requirements.

(13) Purchased water--Raw or treated water purchased from a source outside the retail public utility's system to meet system demand requirements.

(14) Retail public utility--Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision, or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.

(15) Safe drinking water revolving fund--The fund established by the Texas Water Development Board to provide financial assistance in accordance with the federal program established under the provisions of the Safe Drinking Water Act and as defined in Texas Water Code, §15.602.
(16) Service--Any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties under the Texas Water Code to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities.

(17) Water and sewer utility--Any person, corporation, cooperative corporation, affected county, or any combination of those persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the production, transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

(18) Water use restrictions--Restrictions implemented to reduce the amount of water that may be consumed by customers of the system due to emergency conditions or drought.

(19) Wholesale water or sewer service--Potable water or sewer service, or both, provided to a person, political subdivision, or municipality who is not the ultimate consumer of the service.

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(a) The commission or executive director may also issue orders under Chapter 35 of this title (relating to Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions) to appoint a temporary manager under Texas Water Code, §5.507 and §13.4132.

(b) If an order is issued under this section without a hearing, the order shall fix a time, as soon after the emergency order is issued as is practicable, and place for a hearing to be held before the commission.

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(a) A district or authority created under Texas Constitution, §52, Article III, or §59, Article XVI, a retail public utility, a wholesale water service, or other person providing a retail public utility with a wholesale water supply shall provide the commission with a certified copy of any wholesale water supply contract with a retail public utility within 30 days after the date of the execution of the contract.

(b) The submission must include:

(1) the amount of water being supplied;
(2) term of the contract;
(3) consideration being given for the water;
(4) purpose of use;
(5) location of use;
(6) source of supply;
(7) point of delivery;
(8) limitations on the reuse of water;
(9) a disclosure of any affiliated interest between the parties to the contract; and
(10) any other condition or agreement relating to the contract.

(c) The certified copy of the contract should be submitted to the Water Supply Division of the commission.

Adopted September 6, 2006                 Effective September 28, 2006