SUBCHAPTER G: CERTIFICATES OF CONVENIENCE AND NECESSITY
§§ 291.103, 291.110, 291.114
Effective January 3, 2019

§291.103. Certificates Not Required.

A utility or water supply corporation is exempt from the requirement to possess a certificate of convenience and necessity in order to provide retail water service if it:

(1) has less than 15 potential service connections;

(2) is not owned by or affiliated with a retail public utility or any other provider of potable water service;

(3) is not within the certificated area of another retail public utility; and

(4) is not within the corporate boundaries of a district or municipality unless it receives written authorization from the district or municipality.

Adopted December 12, 2018 Effective January 3, 2019

§291.110. Foreclosure and Bankruptcy.

(a) A utility that receives notice that all or a portion of the utility's facilities or property used to provide utility service are being posted for foreclosure shall notify the commission in writing of that fact not later than the tenth day after the date on which the utility receives the notice.

(b) A financial institution that forecloses on a utility or on any part of the utility's facilities or property that are used to provide utility service shall provide written notice to the commission before the 30th day preceding the date on which the foreclosure is completed.

(c) Not later than the 48th hour after the hour in which a utility files a bankruptcy petition, the utility shall report this fact to the commission in writing.

Adopted December 12, 2018 Effective January 3, 2019

§291.114. Requirement To Provide Continuous and Adequate Service.

After notice and hearing, the commission may:
(1) order any retail public utility that is required by law to possess a certificate of public convenience and necessity or any retail public utility that possesses a certificate of public convenience and necessity and is located in an affected county as defined in Texas Water Code, §16.341, to:

(A) provide specified improvements in its service in a defined area if:

   (i) service in that area is inadequate as set forth in §291.93 and §291.94 of this title (relating to Adequacy of Water Utility Service; and Adequacy of Sewer Service); or

   (ii) is substantially inferior to service in a comparable area; and

   (iii) it is reasonable to require the retail public utility to provide the improved service; or

(B) develop, implement, and follow financial, managerial, and technical practices that are acceptable to the Public Utility Commission of Texas to ensure that continuous and adequate service is provided to any areas currently certificated to the retail public utility if the retail public utility has not provided continuous and adequate service to any of those areas and, for a utility, to provide financial assurance of the retail public utility's ability to operate the system in accordance with applicable laws and rules;

(2) order two or more public utilities or water supply or sewer service corporations to establish specified facilities for interconnecting service; or

(3) order a public utility or water supply or sewer service corporation that has not demonstrated that it can provide continuous and adequate service from its drinking water source or sewer treatment facility to obtain service sufficient to meet its obligation to provide continuous and adequate service on at least a wholesale basis from another consenting utility service provider.

Adopted December 12, 2018
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