SUBCHAPTER I: WHOLESALE WATER PETITIONS
§§ 291.128 - 291.131
Effective January 3, 2019

§ 291.128. Petition Concerning Wholesale Water.

This subchapter sets forth substantive guidelines and procedural requirements concerning a petition filed pursuant to Texas Water Code, §§ 11.036 - 11.041.

Adopted December 12, 2018

§ 291.129. Petition.

(a) The petitioner must file a written petition with the commission accompanied by the filing fee required by the Texas Water Code. The petitioner must serve a copy of the petition on the party against whom the petitioner seeks relief and other appropriate parties.

(b) The petition must clearly state the statutory authority which the petitioner invokes, specific factual allegations, and the relief which the petitioner seeks. The petitioner must attach any applicable contract to the petition.

Adopted December 12, 2018


(a) A person seeking relief under the Texas Water Code (TWC), §§ 11.036 - 11.041 should include in a written petition to the commission, the following information, as applicable to the section of the TWC under which the petitioner seeks relief:

(1) the petitioner's name;

(2) the name of the entity from which water is received or sought;

(3) an explanation of why the petitioner is entitled to receive or use the water;

(4) that the petitioner is willing and able to pay a just and reasonable price for the water;
(5) that the party owning or controlling the water supply has water not contracted to others and available for the petitioner's use; and

(6) that the party owning or controlling the water supply fails or refuses to supply the available water to the petitioner, or that the price or rental demanded for the available water is not just and reasonable or is discriminatory.

(b) Water suppliers seeking relief under TWC, §§11.036 - 11.041 should include in a written petition for relief to the commission, the following information:

(1) the petitioner's name;

(2) the name of the ratepayers to whom water is rendered;

(3) an explanation of why the petitioner is entitled to the relief requested;

(4) that the petitioner is willing and able to supply water at a just and reasonable price; and

(5) that the price demanded by the petitioner for the water is just and reasonable and is not discriminatory.

(c) If the petition for relief is accompanied by the deposit stipulated in the TWC, the executive director shall have a preliminary investigation of allegations contained in the petition made and determine whether or not there are probable grounds for the complaint alleged in the petition. The commission may require the petitioner to make an additional deposit or execute a bond satisfactory to the commission in an amount fixed by the commission.

(d) If, after preliminary investigation, the executive director determines that probable grounds exist for the complaint alleged in the petition, the commission shall enter an order setting a time and place for a hearing on the petition. In the hearing, the executive director's participation will be limited to presenting evidence and testimony relating to the portions of the petition within the commission's jurisdiction.

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§291.131. Executive Director's Review of Petition.

When a petition is filed, including a petition subject to the Texas Water Code (TWC), §11.041, the executive director shall determine within ten days of the filing of the petition whether the petition contains all of the information required by this
subchapter. For purposes of this section only, the executive director's review of probable grounds shall be limited to a determination whether the petitioner has met the requirements of §291.129 of this title (relating to Petition). If the executive director determines that the petition does not meet the requirements of §291.129 of this title, the executive director shall inform the petitioner of the deficiencies within the petition and allow the petitioner the opportunity to correct these deficiencies. If the executive director determines that the petition does meet the requirements of §291.129 of this title, the executive director shall forward the petition to the State Office of Administrative Hearings for an evidentiary hearing under TWC, §§11.036 - 11.041 as applicable.

Adopted December 12, 2018

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