

SUBCHAPTER E : EMERGENCY ORDERS FOR UTILITIES
§35.201, §35.202
Effective December 10, 1998

§35.201. Emergency Order for Operation of Utility that Discontinues Operation or is Referred for Appointment of a Receiver.

(a) The commission or executive director may appoint a person by emergency order under Texas Water Code, §5.507 and §13.4132, to temporarily manage and operate a utility that has discontinued or abandoned operations, or which is being referred to the attorney general for the appointment of a receiver under TWC, §13.412.

(b) An emergency order may be issued under this section under the provisions of §291.142 and §291.143 of this title (relating to Operation of Utility that Discontinues Operation or is Referred for Appointment of a Receiver and Operation of a Utility by a Temporary Manager).

(c) Notice of an action under this section is adequate if the notice is mailed or hand-delivered to the last known address of the utility's headquarters.

Adopted November 18, 1998

Effective December 10, 1998

§35.202. Emergency Order for Rate Increase in Certain Situations.

(a) The commission or executive director may authorize an emergency rate increase under Texas Water Code, §5.508 and §13.4133 for a utility:

(1) for which a person has been appointed under Texas Water Code, §13.4132; or

(2) for which a receiver has been appointed under Texas Water Code, §13.412; and

(3) when the increase is necessary to ensure the provision of continuous and adequate services to the utility's customers.

(b) Notwithstanding the provisions of §35.22 of this title (relating to Term and Renewal of Orders), an emergency rate increase may be granted under this section for a period not to exceed 15 calendar months from the date on which the increase takes effect. The commission shall schedule a hearing to establish a final rate within that period.

(c) A request for an emergency rate increase must be filed by the utility in accordance with, and must contain the information required by, §35.24 of this title (relating to Application for Emergency or Temporary Order) and the following:

(1) the effective date of the rate increase;

(2) sufficient information to support the computation of the proposed rates; and

(3) any other information requested by the executive director.

(d) The effective date must be the first day of a billing cycle, unless otherwise authorized by the commission or the executive director.

(e) Any emergency rate increase related to charges for actual consumption will be for consumption after the effective date. An increase or the portion of an increase which is not related to consumption may be billed at the emergency rate on the effective date or the first billing after approval by the commission or the executive director.

(f) A utility receiving authorization for an emergency rate increase shall provide notice of the increase to each ratepayer as soon as possible, but not later than the effective date for the new rate. The notice shall contain the following:

(1) the utility's name and address, the previous rates, the emergency rates, the effective date of the rate increase, and the classes of utility customers affected; and

(2) this statement: "This emergency rate increase has been approved by the Texas Natural Resource Conservation Commission under authority granted by the Texas Water Code, §5.508 and §13.4133, to ensure the provision of continuous and adequate service to the utility's customers. The commission is also required to schedule a hearing to establish a final rate within 15 months after the date on which the emergency rates take effect. The utility is required to provide notice of the hearing to all customers at least 10 days before the date of the hearing. The additional revenues collected under this emergency rate increase are subject to refund if the commission finds that the rate increase was larger than necessary to ensure continuous and adequate service."

(g) The utility shall maintain adequate books and records for a period not less than 12 months to allow for the determination of a cost of service as set forth in §291.31 of this title (relating to Cost of Service).

(h) During the pendency of the emergency rate increase, the commission may require that the utility deposit all or part of the rate increase into an interest-bearing escrow account as set forth in §291.30 of this title (relating to Escrow of Proceeds Received Under Rate Increase).

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