

CHAPTER 652

H.B. No. 2677

AN ACT

relating to the requirement of water utilities to obtain a certificate of convenience and necessity.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 13.181, Water Code, is amended to read as follows:

Sec. 13.181. **POWER TO ENSURE COMPLIANCE; RATE REGULATION.** Subject to this chapter, the commission has all authority and power of the state to ensure compliance with the obligations of utilities under this chapter. For this purpose the regulatory authority may fix and regulate rates of utilities, including rules and regulations for determining the classification of customers and services and for determining the applicability of rates. A rule or order of the regulatory authority may not conflict with the rulings of any federal regulatory body. Except Section 13.192, this subchapter shall apply only to a utility and shall not be applied to municipalities, districts, or water supply or sewer service corporations. *The commission may adopt rules which authorize a utility which is permitted under Section 13.242(c) to provide service without a certificate of public convenience and necessity to request or implement a rate increase and operate according to rules, regulations, and standards of service other than those otherwise required under this chapter provided that rates are just and reasonable for customers and the utility and that service is safe, adequate, efficient, and reasonable.*

SECTION 2. Section 13.242, Water Code, is amended to read as follows:

Sec. 13.242. **CERTIFICATE REQUIRED.** (a) Unless otherwise specified, a utility or water supply or sewer service corporation may not in any way render retail water or sewer utility service directly or indirectly to the public without first having obtained from the commission a certificate that the present or future public convenience and necessity [~~require~~ ~~or~~] will require that installation, operation, or extension, and except as otherwise provided by this subchapter, a retail public utility may not furnish, make available, render, or extend retail water or sewer utility service to any area to which retail water or sewer utility service is being lawfully furnished by another retail public utility without first having obtained a certificate of public convenience and necessity that includes the area in which the consuming facility is located.

(b) A person that is not a retail public utility or a utility or water supply corporation that is operating under provisions pursuant to Subsection (c) may not construct facilities to provide water or sewer service to more than one service connection not on the property owned by the person and that are within the certificated [~~service~~] area of a retail public utility without first obtaining written consent from the retail public utility. A person that violates this section or the reasonable and legal terms and conditions of any written consent is subject to the administrative penalties described [~~prescribed~~] by Section 13.4151 of this code.

(c) ~~The commission may by rule allow a municipality or utility or water supply corporation to render retail water service without a certificate of public convenience and necessity if the municipality has given notice under Section 13.255 of this code that it intends to provide retail water service to an area or if the utility or water supply corporation has less than 15 potential connections and is not within the certificated area of another retail public utility. [Not later than September 1, 1990, a utility or water supply or sewer service corporation that has been previously exempted from the certificate requirements because of operations, extensions, or service in progress on September 1, 1975, shall submit to the commission a completed application to obtain a certificate of public convenience and necessity for the service being provided on September 1, 1975. The commission shall grant a certificate of public convenience and necessity to the customer locations currently being served by the utility or water supply or sewer service corporation that were also being served on September 1, 1975.]~~

SECTION 3. Section 13.250(d), Water Code, is amended to read as follows:

(d) *Except as provided by this subsection, a [A] retail public utility that has not been granted [but is required by law to possess] a certificate of public convenience and necessity may not discontinue, reduce, or impair retail water or sewer service to any ratepayer without approval of the regulatory authority. Except as provided by this subsection, a utility or water supply corporation that is allowed to operate without a certificate of public convenience and necessity under Section 13.242(c) may not discontinue, reduce, or impair retail water or sewer service to any ratepayer without the approval of the regulatory authority. Subject to rules of the regulatory authority, a retail public utility, utility, or water supply*

corporation described in this subsection may discontinue, reduce, or impair retail water or sewer service [except] for:

- (1) nonpayment of charges;
- (2) nonuse; or
- (3) other similar reasons in the usual course of business.

SECTION 4. Section 13.254, Water Code, is amended to read as follows:

Sec. 13.254. REVOCATION OR AMENDMENT OF CERTIFICATE. (a) The commission at any time after notice and hearing may revoke or amend any certificate of public convenience and necessity with the written consent of the certificate holder or if it finds that the certificate holder has never provided, is no longer providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate.

(b) *Upon written request from the certificate holder, the executive director may cancel the certificate of a utility or water supply corporation authorized by rule to operate without a certificate of public convenience and necessity under Section 13.242(c).*

(c) If the certificate of any public utility is revoked or amended, the commission may require one or more public utilities to provide service in the area in question.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 30, 1993, by a non-record vote; passed by the Senate on May 22, 1993: Yeas 31, Nays 0.

Approved June 12, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.