PROJECT NO. 42191

AMENDMENTS TO P.U.C. PROCEDURAL RULES RELATED TO THE MIGRATION OF WATER UTILITIES FROM TCEQ TO THE PUC	**§ § § §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

ORDER ADOPTING AMENDMENT TO §22.1, AMENDMENT TO §22.71, NEW §22.248, AND NEW SUBCHAPTER P, §§22.291 – 22.299 AS APPROVED AT THE JULY 10, 2014 OPEN MEETING

The Public Utility Commission of Texas (commission) adopts amendment to §22.1, relating to Purpose and Scope, and §22.71, relating to Filings of Pleadings, Documents, and Other Materials, new §22.248 relating to Retail Public Utilities, and new Subchapter P, §22.291 - 22.299 relating to Emergency Orders for Water and Sewer Utilities. The commission adopts §22.71, §22.248, §22.292, and §22.295 with changes to the proposed text as published in the April 11, 2014 issue of the *Texas Register* (39 TexReg 2663). The amendments and new sections address necessary procedures for practice to allow the commission to begin exercising its authority over proceedings related to retail public utilities on September 1, 2014, pursuant to House Bill 1600 and Senate Bill 567, 83rd Legislature, Regular Session. Project Number 42191 is assigned to this proceeding.

The commission received comments on the proposed amendments and new sections from Mathews & Freeland, LLP (Mathews & Freeland); Aqua Texas, Inc., Aqua Utilities, Inc., Aqua Development, Inc. d/b/a Aqua Texas, SJWTX, Inc. d/b/a Canyon Lake Water Service Company, Southwest Water Company, and Corix Utilities (Texas), Inc. (collectively, the Water IOUs); Alliance of Xcel Municipalities (AXM); the cities of Blue Mound, Ivanhoe, Kyle, and Buda (collectively, the Coalition of Cities); the Texas Commission on Environmental Quality (TCEQ);

and Texans Against Monopolies' Excessive Rates (TAMER). The commission received reply comments from the Coalition of Cities; the Water IOUs; Alliance of Local Regulatory Authorities (ALRA); the city of Houston (Houston); and the Office of Public Utility Counsel (OPUC).

Proposed Amendment to §22.1

The Water IOUs objected to amending §22.1 to list the types of proceedings over which the commission has authority, finding it problematic to apply the entirety of Chapter 22 to Texas Water Code Chapter 13 cases. They found the provisions unnecessary since the commission's authority is sufficiently covered by proposed §22.248 for retail public utilities and elsewhere in Chapter 22 for other matters. If the commission adopts the proposed amendment, the Water IOUs suggested the commission take care to eliminate conflicts between Chapter 22 and Texas Water Code Chapter 13. The Water IOUs cited as an example the definition of *affected person* found in §22.2. That section of the procedural rules defines *affected person* by referencing the Public Utility Regulatory Act (PURA) §11.003(1); however, the Water IOUs noted, Texas Water Code Chapter 13 contains its own definition of *affected person*.

ALRA and OPUC disputed the Water IOUs' claims. They found it reasonable for the commission to acknowledge that its procedural rules apply to cases over which it has statutory jurisdiction. ALRA and OPUC rejected the Water IOUs complaint that application of the commission's rules would create conflicts with the definition of *affected person*, and OPUC pointed to the commission's rule §22.1(b)(4) which provides that where provisions of the procedural rules conflict with statute or the commission's substantive rules, the statute or substantive rule controls. The Coalition of Cities, however, agreed with the Water IOUs'

argument that the proposed procedural rules should be amended to be consistent with the definition of *affected person* under Texas Water Code §13.002(1), but found that this does not require the commission be bound by another agency's interpretation of the term.

Commission Response

The commission disagrees with the Water IOUs that the enumeration of codes that grant the commission authority to govern proceedings creates conflict or unintended consequences. Section 22.1(b)(3) (which will be renumbered as (b)(4) with the adoption of the amendment of §22.1) states that where a provision in Chapter 22 conflicts with any statute or substantive rule of the commission, the statute or substantive rule controls. Further, the commission finds that the definition of *affected person* found in PURA §11.003(1) is essentially the same as the definition of *affected person* found in Texas Water Code §13.002(1). The commission did not propose to amend §22.2 in this project; however, for clarity, the commission will amend §22.2 in a future project to ensure all definitions are consistent with Texas Water Code proceedings.

Proposed Amendment to §22.71(c)(9)

Mathews & Freeland noted that §22.71(c)(d) does not expressly address the filing requirements for petitions for decertification under Texas Water Code §13.254, which fall into the category of applications to amend an existing certificate of convenience and necessity (CCN). Mathews & Freeland suggested adding the phrase "including petitions for decertification" after "amendment to certificates of convenience and necessity."

The Water IOUs agreed with Mathews & Freeland. The Water IOUs further asserted that Texas Water Code Chapter 13 contains various types of applications related to certificates of convenience and necessity which are not considered new or amended CCN applications, such as sale, transfer or merger applications and petitions to prevent CCN interference. The Water IOUs contended that applicants for these types of CCN-related applications need direction on filing requirements for these types of applications, too. The Water IOUs suggested amending the subsection to include a general reference to the rules relating to CCNs found in Subchapter G of the commission's proposed new Chapter 24.

Commission Response

The commission agrees that a decertification is an amendment to a CCN, and therefore falls within that category in the rule; however, the commission amends the proposed subsection to add a parenthetical behind "amendment to certificates of convenience and necessity" for clarity. The commission does not find it necessary to broadly include all items related to a CCN in this subsection as proposed. For particular items not explicitly listed, §22.71(c)(1) contains the catch-all provision requiring ten copies be filed for applications, petitions, and complaints.

Proposed §22.248

Subsections (a) and (b)

The Water IOUs questioned why subsection (a) states that it addresses proceedings related to water and sewer utilities, but excludes retail public utilities from its scope. The Water IOUs contended the subsection should include reference to retail public utilities, and also suggested

adding the definition of retail public utility in subsection (b). The Coalition of Cities did not object to this suggestion.

Commission Response

The commission finds that, as defined in Texas Water Code §13.002, *retail public utility* is a broad term that includes *water and sewer utility*; therefore the commission amends proposed §22.248 to use the term *retail public utility* throughout the rule section.

Subsections (c) – (g)

Mathews & Freeland, the Coalition of Cities, AXM, TAMER and ALRA all would like to see commission procedural rules, specifically discovery rules, applied as quickly as possible. Suggestions for a bright-line rule establishing how to proceed with cases transferred to the commission included the following: applying commission rules to all cases, even those in progress at the time of transfer, beginning September 1, 2014; applying commission rules to all cases in which a preliminary hearing has not been held and no scheduling order issued on or after July 1, 2014; applying commission rules where the procedural schedule established before the transfer contemplates that pre-filed testimony of the applicant or commission staff will be filed after September 1, 2014; and applying commission rules to transferred cases where, on September 1, 2014, testimony has not yet been filed or a hearing on the merits has not been held.

Mathews & Freeland argued subsection (c)(2) and (3) are unnecessary and create ambiguity that parties will use to increase costs by forcing additional filings and hearings to determine which procedural rules apply. To avoid this, cases filed between now and the September 1, 2014 transfer date should address potential procedural complications in preliminary hearings rather

than waiting until the transfer to confront potential issues. Mathews & Freeland also asserted that the commission's discovery procedures are far more efficient than TCEQ's, and so the commission should insist that its discovery procedures apply in most cases. Mathews & Freeland proposed the commission delete proposed subsection (c)(2) and (3) and adopt a firm transfer date of September 1, 2014, at which time commission procedural rules will apply as specified in §22.248(d). Mathews & Freeland suggested amending proposed subsection (d) so that commission rules will apply to all cases in which a preliminary hearing has not been held and no scheduling order issued on or after July 1, 2014.

Similarly, the Coalition of Cities contended the commission should require the commission's discovery rules apply to all cases where the procedural schedule established before the transfer contemplates that pre-filed testimony of the applicant or commission staff will be filed after the September 1, 2014 transfer. The Coalition of Cities found that TCEQ's procedural rules give the administrative law judge (ALJ) latitude to impose commission procedural rules in their procedural orders even for cases under TCEQ jurisdiction. The Coalition of Cities claims it is unfair that, in cases transferred to the commission, some may proceed by different discovery rules than others. The Coalition of Cities recommended amending subsection (d)(2) so that the commission's procedural rules apply to all cases where direct testimony has not yet been filed on September 1, 2014.

AXM argued that the simpler, more equitable approach to cases transferred to the commission is to apply only the commission's procedural rules immediately upon transfer. AXM found it a violation of the Administrative Procedure Act for the commission to apply another agency's rules to a case within the commission's jurisdiction. To this effect, AXM suggested amending

subsections (c), (d), and (g) to provide that all proceedings transferred to the commission are immediately governed by the commission's procedural rules. In the alternative, should the commission choose to retain its proposed method of handling transferred cases, AXM suggested editing the wording of subsection (c)(3) to promote clarity.

TAMER also presented concerns about the application of procedural rules to cases transferred to the commission, particularly in light of its members in areas served by three water utilities with rate-case preliminary hearings scheduled for late June. TAMER argued that the commission should not give the ALJ discretion or force the ALJ to speculate as to the discovery policy preferences of both TCEQ and the commission, but should amend the proposed rule so that discovery will proceed under the commission's rules from, at the latest, September 1, 2014. TAMER would, however, like the commission to continue one discovery practice of TCEQ and include in subsection (d) that a Tex. R. Civ. Proc. Rule 194 (Rule 194) disclosure duty, if invoked by a request, remains a duty after the September 1, 2014 transfer. Additionally, TAMER recommended amending subsection (d)(2)(B) to make the rule more open-ended and less proscriptive regarding the reasons that might support a modification or abatement of the procedural schedule.

ALRA also contended that the commission should exclusively apply the commission's procedural rules to all dockets transferred to the commission on September 1, 2014, in order to reduce unnecessary delay and costs associated with debating which rules apply. ALRA suggested, in the alternative, amending the proposed section so that the commission's rules apply in all proceedings in which the preliminary hearing occurs on or after July 1, 2014, or any pre-filed testimony will be filed after the proceeding is transferred to the commission.

Houston stated that it has participated in proceedings before the commission and the TCEQ, and Houston found the commission's procedural rules offered an efficient means of conducting proceedings. Houston supported applying the commission's procedural rules to transferred cases where, on September 1, 2014, testimony has not yet been filed or a hearing on the merits has not been held.

The Water IOUs took a contrasting stance to the others filing comments on §22.248(d) – (g). The Water IOUs opposed the proposed commission approach, which they defined as a wholesale replacement of TCEQ's retail public utility case procedures with the commission's procedures used in other types of utility matters, not adopted with the regulation of retail public utilities in mind. While noting that the application of some purely logistical commission procedural rules is essential and welcomed for administrative purposes, the Water IOUs oppose the commission's procedural rules that facially contradict TCEQ's substantive rate-regulation rules. The Water IOUs cited the commission's procedural rules that require pre-filed direct testimony, do not allow noticed rates to go into effect until a final order is issued, and place strict deadlines on completion. The Water IOUs found these provisions in direct conflict with TCEQ's substantive rules in 30 TEX. ADMIN. CODE Chapter 291, which the commission proposes to adopt largely unchanged as Chapter 24 of the commission's substantive rules. The Water IOUs also cited inconsistency between terms used in the commission's rules and TCEQ's rules, specifically referring to the use of *prehearing conference* and *preliminary hearing* in §22.248 as indication of problems that will arise should the commission apply the entirety of its procedural rules to retail public utility cases beginning on September 1, 2014.

The Water IOUs found the most cause for concern in the application of the commission's discovery rules found in Chapter 22. They argued the rules allow for essentially unlimited discovery, coupled with shortened response times, and little room for modified procedures or limitations. Conversely, TCEQ's discovery rules establish limits which may only be expanded in specific circumstances. The Water IOUs argued the commission's rules work well for big electric rate applications with pre-filed direct testimony, but do not serve well in retail public utility cases. They asserted that the expanded discovery allowed by the commission will greatly increase rate-case expenses, and retail public utilities have significantly fewer customers than electric utilities over whom to spread costs. As evidence, the Water IOUs offered a list of recent major, electric-IOU-rate-case expenses. The Water IOUs also expressed concern that they do not have sufficient staff to respond to unlimited requests for information under the commission's discovery rules.

Additionally, the Water IOUs claimed proposed §22.248(d) – (g) raises serious due process concerns with respect to open cases transferred to the commission on September 1, 2014. The Water IOUs argued the rules should not permit stopping a contested case hearing in progress to allow additional testimony from commission staff or to change the procedural rules at the ALJ's discretion. The Water IOUs argued that fundamental fairness and due process require the same rules, same parties, and same staff recommendations throughout the hearing process.

The Water IOUs recommended not applying the commission's substantive rules to retail public utilities just yet. They asserted the better approach is to develop retail-public-utility-specific procedural rules in conjunction with new substantive rules in phase II of the migration of retail public utility regulation to commission jurisdiction. However, if the commission chooses to

apply its procedural rules to retail public utility proceedings, the Water IOUs asked that the commission incorporate reasonable, mandatory discovery limitations similar to those currently applied by TCEQ.

The Coalition of Cities, ALRA, Houston and OPUC disagreed with the Water IOUs' position. OPUC refuted the Water IOUs' claim that imposition of the commission's procedural rules would create conflicts or contradictions. OPUC pointed to §22.1(b)(4) which states that where conflicts arise with procedural rules, the statute and the commission's substantive rules control. OPUC also rejected the Water IOUs' issue with the use of both the terms *preliminary hearing* and *prehearing conference* in §22.248(d), observing that the section uses the term *preliminary hearing* in the context of events occurring under TCEQ's jurisdiction and the term *prehearing conference* for events occurring after the September 1, 2014 transfer to the commission's jurisdiction. OPUC also questioned the Water IOUs' support of what OPUC sees as the more costly discovery processes of TCEQ.

The Coalition of Cities and OPUC rejected the Water IOUs' argument that application of the commission's procedural rules to transferred cases that were filed under TCEQ rules raises due process concerns. The Coalition of Cities found that the Water IOUs have no vested right in a particular procedural schedule that would trigger constitutional questions, nor is there any constitutional prohibition to staff filing or adopting testimony after the case is transferred to the commission. OPUC asserted that the proposed rule simply carries forward the present authority of the ALJ to establish and change discovery procedures at the ALJ's discretion, citing TCEQ's procedural rule found in 30 TAC §80.151.

The Coalition of Cities and Houston found the Water IOUs' comparison of rate-case expenses with electric utility rate cases inappropriate since the two types of proceedings tend to progress differently, with 90% of water rate cases settling; water rate cases, unlike electric, tend to have very few parties who are represented by attorneys or have expert witnesses; and electric utilities are larger and have larger customer bases than the average water utility for the same area. The Coalition of Cities also claimed that the Water IOUs or affiliate water utilities of the Water IOUs already operate in states with the discovery tools that the Water IOUs complain about here. ALRA and Houston pointed out that provisions in the commission's procedural rules allow the imposition of limits on discovery practices, so they would not be unduly burdensome or costly for the Water IOUs.

While ALRA agreed with the Water IOUs that the proposed rules amount to a "wholesale replacement" of TCEQ's retail-public-utility-case procedures with the commission's procedures, it disagreed with the Water IOUs' belief that this replacement is a bad thing. ALRA and Houston found the legislature chose to move water and sewer proceedings to the commission because of the manner in which the commission handles similar proceedings with electric utilities. ALRA and Houston claimed that retaining TCEQ's procedural rules would effectively make the legislative transfer of jurisdiction a transfer in name only, contrary to legislative intent. In addition, Houston argued that the introduction of competing procedural rules, such as discovery rules, would also fall short of the legislature's mandate by simply creating a separate regulatory scheme within the commission.

Regarding generally when and how the commission's procedural rules will apply to cases transferred on September 1, 2014, the simple fact of the variety of comments received on

this proposed rule section, the spectrum of suggested benchmarks for when a case should come under the commission's rules, supports the commission's position of giving the ALJ discretion to determine how a particular case should proceed. Imagining all possible scenarios and permutations of each case in progress at the moment it transfers to the commission's jurisdiction renders creating a bright-line rule impracticable.

The commission finds allowing the ALJ latitude to consider the unique facts of the case and the proffered positions of the parties in order to determine how each case proceeds will produce the most equitable and efficient result. The commission is confident that the ALJs will direct each case to minimize any disruption of the proceedings, to be fair and reasonable, and to prevent any party from intentionally increasing expenses or abusing the process during the transition to the commission's jurisdiction. In addition, the commission has no authority to dictate to the ALJ what matters to consider at a preliminary hearing while TCEQ still has jurisdiction over the matter. The commission cannot by rule instruct the ALJs or parties to cases with preliminary hearings scheduled before September 1, 2014, to consider the pending transfer of the case when creating a procedural schedule or to make use of commission discovery rules. However, considering the pending transfer when setting a procedural schedule would be prudent.

Addressing comments more specifically, the commission finds subsection (c)(2) and (3) clarify the commission's intent as to how it will handle open cases transferred to the commission's jurisdiction and underscore the commission's priority of moving to the use of the commission's procedural rules in retail public utility cases. The commission does not find the subsections create ambiguity since subsection (d) gives clear instructions;

therefore, the commission does not see a reason to strike the provisions as suggested by Mathews & Freeland.

The commission does not agree with AXM that the application of TCEQ's rules to transferred cases violates the Administrative Procedure Act. The commission's procedural rules include provisions that allow for flexibility and use of discovery practices not set out in Chapter 22. In addition, House Bill 1600 and Senate Bill 567 state: "A rule, form, policy, procedure, or decision of the Texas Commission on Environmental Quality related to a power, duty, function, program, or activity transferred under this Act continues in effect as a rule, form, policy, procedure, or decision of the Public Utility Commission of Texas and remains in effect until amended or replaced by that agency." Accordingly, the commission may retain use of TCEQ's procedural rules. The commission agrees with AXM that it is beneficial to reword §22.248(c)(3) for clarity and amends the proposed subsection to incorporate language similar to that proposed by AXM.

Regarding TAMER's suggestion that the commission include a provision stating that Rule 194 disclosures will continue, the commission finds §22.144 (Requests for Information and Requests for Admission of Facts) is sufficiently broad to accomplish the objective of Rule 194. In addition, §22.141(c)(3) provides that the parties may agree to modify the discovery procedures contained in the commission's rules, which would allow the parties to utilize Rule 194. If necessary, a party can seek appropriate relief from the ALJ. Finally, the commission does not find §22.248(d)(2)(B) proscriptive or in any way foreclosing a party from seeking and obtaining a modification or abatement of the procedural schedule for any other just cause, and so does not find amendment to that rule necessary.

The commission does not foresee conflicts arising from the application of its procedural rules to all retail public utility cases as hypothesized by the Water IOUs. As stated above in the commission's response to comments on the proposed amendment to §22.1, Chapter 22 clearly establishes that any conflicts of law favor the statute or substantive rule. If the commission's procedural rules conflict with rules contained in 30 TAC Chapter 291, the existing practices of the TCEQ that the commission adopts in its proposed Chapter 24 will control. Further, the perceived discordance in the use of terms in the rule is not an unintended consequence of applying the commission's rules to Texas Water Code Chapter 13 cases. The proposed rule uses the term *preliminary hearing* when referring to an activity that would have occurred under TCEQ's jurisdiction and rules and the term *prehearing conference* when referring to an activity that will occur under the commission's jurisdiction and rules, consistent with the terminology of each agency's rules.

In the interest of efficiency and honoring legislative intent, the commission intends to apply its established procedural rules to retail public utility cases as it does in all other cases before the commission. The commission finds its rules sufficiently flexible to accommodate retail public utility cases as effectively as cases involving large electric companies or small telephone cooperatives. Should a retail public utility find that discovery procedures in its case become unduly burdensome, §22.142 provides an avenue to limit discovery.

Proposed §22.292

The Water IOUs suggested including reference to Texas Water Code §5.507 together with the reference to Texas Water Code §13.4132, and including reference to Texas Water Code §13.4133 together with reference to Texas Water Code §5.508.

Commission Response

The commission adopts the clarifying amendments as suggested.

Proposed §22.295(b)(10)

The Water IOUs noted that the term *responsible corporate officer* is a defined term in 30 TAC §35.24, which is the source for this proposed provision, and suggested using the descriptor *authorized* instead of *responsible*. The Water IOUs also questioned why the commission did not include the provision in 30 TAC §35.24 establishing who may sign an application on behalf of a municipality, state, federal, or other public agency.

Commission Response

The commission finds that r*esponsible corporate officer* has a plain meaning that does not require definition. The commission adopts amendment of §22.295(b)(10), inserting a new subparagraph (C) setting out who many sign on behalf of a municipality, state, federal, or other public agency and relettering the subsequent provisions accordingly.

Proposed §22.299

The Water IOUs questioned why provisions equivalent to 30 TAC §35.28 and §35.29 do not appear in this or any other section relating to hearings for emergency orders.

The Coalition of Cities argued that inclusion of those provisions should be rejected since the purpose of those provisions is to make it difficult for a party to achieve standing to participate in hearings related to emergency orders.

Commission Response

The commission does not find it necessary to include 30 TAC §35.28 (Hearing Requests) and §35.29 (Procedures for a Hearing) since existing commission procedural rules address the subject matter of those provisions. The commission handles all dockets as contested cases, Subchapter F of Chapter 22 sets out the rights of the parties to a case, including who may intervene and how, and the commission's procedures for hearings appear in Subchapter K of Chapter 22.

TCEQ's Comments

TCEQ submitted comments recommending two amendments to proposed §22.248 – to add the word *utility* after the word *sewer* in §22.248(c)(3), and to add the word *been* prior to the word *issued* in §22.248(d)(2).

Commission Response

The commission adopts the clarifying amendment to §22.248(d)(2) as proposed, but finds the amendment to §22.248(c)(3) unnecessary in light of the change in terminology from *water and sewer utility* to *retail public utility* throughout §22.248.

The amendments are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 and §14.052 (West 2007 and Supp. 2014) and the Texas Water Code Annotated §13.041 (West 1997 and Supp. 2014) which provide the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure.

Cross Reference to Statutes: Texas Water Code §§5.501 – 5.508 and Chapter 13.

§22.1. Purpose and Scope.

(a) **Purpose.** The purpose of this chapter is to provide a system of procedures for practice before the Public Utility Commission of Texas that will promote the just and efficient disposition of proceedings and public participation in the decision-making process. The provisions of this chapter shall be given a fair and impartial construction to attain these objectives.

(b) **Scope.**

(1) This chapter shall govern the initiation, conduct, and determination of proceedings required or permitted by law, including proceedings referred to SOAH, whether instituted by order of the commission or by the filing of an application, complaint, petition, or any other pleading.

(2) This chapter shall govern proceedings under the Texas Utilities Code, Texas Water Code, Texas Health and Safety Code, Texas Government Code, or any other statute granting the Public Utility Commission of Texas authority to conduct proceedings.

(3) This chapter shall not be construed so as to enlarge, diminish, modify, or otherwise alter the jurisdiction, powers, or authority of the commission, the commission staff, or the substantive rights of any person.

(4) To the extent that any provision of this chapter is in conflict with any statute or substantive rule of the commission, the statute or substantive rule shall control.

§22.71. Filing of Pleadings, Documents, and Other Materials.

(a) **Applicability.** This section applies to all pleadings as defined in §22.2 of this title (relating to Definitions) and the following documents:

(1) All documents filed relating to a rulemaking proceeding.

(2) Applications filed pursuant to the Public Utility Regulatory Act (PURA) or the commission's substantive rules in Chapter 25 and 26 of this title.

(3) Letters or memoranda relating to any item with a control number.

(4) Reports pursuant to PURA, commission rules or request of the commission.

(5) Discovery requests and responses.

(b) **File with the commission filing clerk.** All pleadings and documents required to be filed with the commission shall be filed with the commission filing clerk, and shall state the control number on the heading, if known.

(c) **Number of items to be filed.** Unless otherwise provided by this chapter or ordered by the presiding officer, the number of copies to be filed, including the original, are as follows:

(1) applications, petitions, and complaints: ten copies;

(2) applications for expanded local calling: seven copies;

(3) applications for certificates of operating authority (COAs) or service provider certificates of operating authority (SPCOA), amendments to COA or SPCOA

applications, and all pleadings or documents related to the applications for COAs or SPCOAs: seven copies;

(4) applications for certification of retail electric providers or for registration of power generation companies, self-generators or aggregators: seven copies;

(5) tariffs:

(A) for review under §22.33 of this title (relating to Tariff Filings), including discovery responses for tariffs filed under §22.33 of this title: six copies;

(B) related to docketed proceedings: ten copies; and

(C) related to discovery responses in docketed proceedings: four copies;

(6) exceptions, replies, interim appeals, requests for oral argument, and other documents addressed to the commissioners: 19 copies;

(7) testimony and briefs: 11 copies, except that in contested cases transferred to the State Office of Administrative Hearings, parties must file 13 copies of testimony and briefs;

(8) rate, fuel factor, and fuel reconciliation filing packages: 11 copies;

(9) applications for certificates of convenience and necessity, amendments to certificates of convenience and necessity (including petitions for decertification), and service area exceptions: seven copies;

(10) discovery requests: five copies;

(11) discovery responses: four copies;

(12) reports filed pursuant to the Public Utility Regulatory Act or the commission's Substantive Rules: four;

(13) comments to proposed rulemakings: 16; and

(14) other pleadings and documents: ten copies, except that in contested cases transferred to the State Office of Administrative Hearings (SOAH), parties must file 12 copies of other pleadings and documents.

(d) **Confidential material:**

(1) A party providing materials designated as confidential shall deliver them to Central Records in an enclosed, sealed and labeled envelope ("confidential envelope"). The confidential envelope shall not include any non-confidential materials unless directly related to and essential for clarity of the confidential material. Each copy of confidential material shall be provided in a separate sealed and labeled envelope. Parties shall notify the Central Records' filing clerk prior to submission of any documents to be file-stamped whether the submission includes any confidential material. If the confidential envelope does not meet the requirements of subparagraph (A)(i) - (vii) of this paragraph, both the envelope and any document directly related to the confidential material will be immediately returned to the submitting party without being filed-stamped. If the confidential envelope meets the requirements of subparagraph (A)(i) - (vii) of this paragraph, Central Records shall accept it on a provisional basis. The confidential documents manager for the Legal Division shall review the confidential envelope and documents for compliance with subparagraphs (A) - (C) of this paragraph. Any envelope and/or documents that do not meet the requirements of these subparagraphs will be returned to the submitting party by the confidential documents manager. The submitting party shall be required to bring the envelope

and/or materials into compliance with this section and resubmit the envelope and materials through Central Records. Parties shall resubmit any documents returned by either the filing clerk or the confidential documents manager no later than 3:00 p.m. the next working day after notification of the deficiency. Any issue regarding timeliness of the filing shall be addressed by the administrative law judge assigned to the proceeding. No submitting party shall deliver any confidential materials directly to commission staff. Confidential documents related to settlement negotiations shall be submitted pursuant to paragraph (4) of this subsection. Confidential documents submitted for *in camera* review shall be submitted pursuant to paragraph (5) of this subsection.

(A) The confidential envelope shall contain confidential material related only to a single proceeding. All confidential material, including that submitted in diskette or CD-rom format, shall be provided in a 10 X 13 inch manila clasp envelope. A larger envelope shall be permitted only when necessary as a result of the document's size pursuant to §22.72(b)(2) of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission). All envelopes shall be identified with a label containing the information required in clauses (i) - (viii) of this subparagraph:

(i) the word "CONFIDENTIAL" in bold print at least one-half inch in size;

(ii) the control number, if available;

(iii) the style of the proceeding;

(iv) the name of the submitting party;

(v) Brief description of contents, i.e., "Response to {Name of RFI requestor}'s First RFI No. 1-1";

(vi) Bate Stamped or consecutive page number range of documents enclosed;

(vii) Number and quantity of envelopes, i.e., one of one or one of two, two of two (If the confidential material fits into one envelope, each copy would be marked "one of one." If the confidential material requires two envelopes, each copy would be marked "one of two, two of two"); and

(viii) any other markings as required by the individual protective orders in each proceeding.

(B) The submitting party's label shall substantially conform to the following form, with changes as necessary to comply with any individual protective order applicable to the proceeding, and shall be securely taped or adhered only to the front of the confidential envelope:

CONFIDENTIAL

DOCKET NO. _____

STYLE: _____

_____

SUBMITTING PARTY: _____

BRIEF DESCRIPTION OF CONTENTS: _____

_____

BATE STAMP OR SEQUENTIAL PAGE NUMBER RANGE:

_____ TO _____

ENVELOPE #_____ OF _____

ADDITIONAL INFORMATION REQUIRED BY PROTECTIVE ORDER:

_____

DATE SUBMITTED TO COMMISSION: _____

(C) The confidential materials shall:

(i) have each page of the confidential material marked "confidential" or as required by the individual protective orders in each proceeding;

(ii) meet the requirements of §22.72(g) of this title;

(iii) have each page, including any cover letters or divider pages, sequentially numbered and the sequential numbers shall be easily distinguishable from any other numbering the submitting party uses for internal purposes;

(iv) be stapled or secured in a pressboard letter folder or binder, and not loose, rubber banded, paper clipped or in a three-ring binder.

(D) Unless otherwise provided by this chapter or the presiding officer, confidential material submitted as evidence at hearings shall follow the procedures set forth in this paragraph.

(2) Unless otherwise provided by this chapter or order of the presiding officer the number of copies of confidential material delivered to the commission shall be as follows:

(A) related to arbitrations: two copies;

(B) related to discovery: two copies;

(C) related to contested cases transferred to the SOAH: two copies to Central Records and one copy delivered directly to SOAH;

(D) related to any other proceeding: two copies; and

(E) related to request for proposal for goods and/or services: one copy

(3) Unless otherwise provided by this chapter or order of the presiding officer, all confidential material shall be delivered to Central Records. All commission employees receiving confidential materials through Central Records, or otherwise handling or routing confidential materials for any purpose, shall sign an agreement not to open any sealed containers marked pursuant to paragraph (1) of this subsection. Confidential materials shall not be filed with the commission electronically unless specific arrangements are made and agreed to by the parties involved on a case-by-case basis.

(A) Materials related to arbitrations. Central Records will route one copy to the commission's Policy Development Division for the appeals file and one copy to the commission's Legal Division. Commission staff who have signed an agreement to abide by the protective order in the proceeding may view the copy of the confidential material maintained by the Legal Division.

(B) Material related to contested cases transferred to SOAH and other docketed proceedings. Central Records will maintain one file copy that is not accessible to the public or commission staff. Central Records will route the additional copy to the commission's Legal Division. Commission staff who have signed an agreement to abide by the protective order in the proceeding may view the copy of the confidential material maintained by the commission's Legal Division. The party who provides the confidential material will be responsible for delivering one copy of confidential materials not related to discovery to SOAH.

(C) Request for proposal for goods and/or services. Confidential material related to a request for proposal for goods and/or services will be delivered to the commission's General Counsel or the General Counsel's authorized representative.

(4) **Settlement negotiations.** Confidential materials related to settlement negotiations shall be delivered to the commission's Mail Room. Confidential materials related to settlement negotiations shall not be considered part of the official record and shall not be logged into the commission's agency information system (AIS). The party submitting confidential materials for settlement negotiations is responsible for ensuring that the materials are properly labeled pursuant to subparagraphs (A) and (B) of this paragraph. Confidential materials that are not properly labeled will not be accepted by the Mail Room. The Mail Room will ensure that the materials are delivered to the staff person identified on the label.

(A) Confidential material related to settlement negotiations shall be delivered in a sealed envelope identified with a label containing the information in clauses (i) - (v) of this subparagraph:

(i) the words "SETTLEMENT NEGOTIATIONS" and "CONFIDENTIAL" in bold print at least one-half inch in size;

(ii) the control number;

(iii) the style of the proceeding;

(iv) name of submitting party; and

(v) name of the staff person assigned to the proceeding who is to receive the confidential material.

(B) The submitting party's label shall substantially conform to the following form and shall be securely taped or adhered only to the front of the confidential envelope:

SETTLEMENT

NEGOTIATIONS

CONFIDENTIAL

DOCKET NO. _____

STYLE:

_____

_____

SUBMITTING PARTY: _____

COMMISSION STAFF PERSON TO RECEIVE MATERIAL:

_____

DATE SUBMITTED TO COMMISSION: _____

(5) ***In camera* review.** One copy of confidential materials related to *in camera* review shall be delivered to the commission's Mail Room. Confidential materials related to *in camera* review shall not be considered part of the official record and shall not be logged into the commission's agency information system (AIS). The party submitting confidential materials for *in camera* review is responsible for ensuring that the materials are properly labeled pursuant to subparagraphs (A) and (B) of this paragraph. Confidential materials that are not properly labeled will not be accepted by the Mail Room. The Mail Room will ensure that the materials are delivered to the administrative law judge or arbitrator assigned to the proceeding.

(A) Confidential material related to *in camera* review shall be delivered in a sealed envelope identified with a label containing the information in clauses (i) - (v) of this subparagraph:

(i) the words "IN CAMERA REVIEW" and "CONFIDENTIAL" in bold print at least one-half inch in size;

(ii) the control number;

(iii) the style of the proceeding;

(iv) name of submitting party; and

(v) name of the administrative law judge or arbitrator assigned to the proceeding.

(B) The submitting party's label shall substantially conform to the following form and shall be securely taped or adhered only to the front of the confidential envelope:

IN CAMERA

REVIEW

CONFIDENTIAL

DOCKET NO. _____

STYLE: _____

_____

SUBMITTING PARTY: _____

ADMINISTRATIVE LAW JUDGE or ARBITRATOR:

_____

DATE SUBMITTED TO COMMISSION: _____

(6) Working copies of confidential material shall be maintained, destroyed, or returned to the providing party pursuant to the individual protective orders in each proceeding. Record copies of confidential material shall be maintained or destroyed pursuant to the commission's Records Retention Schedule as approved by the Texas State Library and Archives Commission.

(e) **Receipt by the commission.** Pleadings and any other documents shall be deemed filed when the required number of copies and the electronic copy, if required, in conformance with §22.72 of this title are presented to the commission filing clerk for filing. The commission filing clerk shall accept pleadings and documents if the person seeking to make the filing is in line by the time the pleading or document is required to be filed.

(f) **No filing fee.** No filing fee is required to file any pleading or document with the commission.

(g) **Office hours of Central Records and the commission filing clerk.**

(1) The office hours of Central Records are from 9:00 a.m. to 5:00 p.m., Monday through Friday, on working days, except on Fridays, when Central Records will close for all purposes from noon to 1:00 p.m.

(2) With the exception of open meeting days, for the purpose of filing documents, the office hours of the commission filing clerk are from 9:00 a.m. to 5:00 p.m., Monday through Friday, on working days.

(3) On open meeting days, the commissioners and the Policy Development Division may file items related to the open meeting on behalf of the commissioners between the hours of 8:00 a.m. and 9:00 a.m. The commissioners and the Policy Development Division shall provide the filing clerk with an extra copy of all documents filed pursuant to this paragraph for public access.

(4) Central Records will open at 8:00 a.m. on open meeting days. With the exception of paragraph (3) of this subsection, no filings will be accepted between the hours of 8:00 a.m. and 9:00 a.m.

(h) **Filing a copy or facsimile copy in lieu of an original.** Subject to the requirements of subsection (c) of this section and §22.72 of this title, a copy of an original document or pleading, including a copy that has been transmitted through a facsimile machine, may be

filed, so long as the party or the attorney filing such copy maintains the original for inspection by the commission or any party to the proceeding.

(i) **Filing deadline.** All documents shall be filed by 3:00 p.m. on the date due, unless otherwise ordered by the presiding officer.

(j) **Filing deadlines for documents addressed to the commissioners**.

(1) Except as provided in paragraph (2) of this subsection, all documents from parties addressed to the commissioners relating to any proceeding that has been placed on the agenda of an open meeting shall be filed with the commission filing clerk no later than seven days prior to the open meeting at which the proceeding will be considered provided that no party is prejudiced by the timing of the filing of the documents. Documents that are not filed before the deadline and do not meet one of the exceptions in paragraph (2) of this subsection, will be considered untimely filed, and may not be reviewed by the commissioners in their open meeting preparations.

(2) The deadline established in paragraph (1) of this subsection does not apply if:

(A) The documents have been specifically requested by one of the commissioners;

(B) The parties are negotiating and such negotiation requires the late filing of documents; or

(C) Good cause for the late filing exists. Good cause must clearly appear from specific facts shown by written pleading that compliance with the deadline

was not reasonably possible and that failure to meet the deadline was not the result of the negligence of the party. The finding of good cause lies within the discretion of the commission.

(3) Documents filed under paragraph (2) of this subsection shall be served on all parties by hand delivery, facsimile transmission, or by overnight courier delivery.

§22.248. Retail Public Utilities.

(a) **Scope.** This section is intended to address proceedings related to retail public utilities, including applications related to certificates of convenience and necessity, rate proceedings, or appeals of rate actions.

(b) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

(1) 30 TAC Chapter 80--Texas Commission on Environmental Quality (TCEQ) rules relating to Contested Case Hearings, as the rules existed on August 31, 2014.

(2) Retail public utility -- A retail public utility as defined in Texas Water Code §13.002.

(c) **Transfer of proceedings.**

(1) On September 1, 2014, proceedings related to a retail public utility's certificate of convenience and necessity or rates shall be transferred to the commission in accordance with law.

(2) The procedural rules of the commission shall be used in every retail public utility proceeding transferred to the commission as soon as practicable or as established by this section.

(3) The presiding officer shall have authority to determine in accordance with this section whether the commission's procedural rules, the TCEQ's procedural rules as continued in force by this section, or any combination of those agencies' rules shall apply in each retail public utility proceeding transferred to the commission.

(d) **Specific procedures in transferred case.** Every retail public utility proceeding transferred to the commission on September 1, 2014 shall be subject to this chapter as follows:

(1) If a preliminary hearing has not been held and a scheduling order has not been issued in a proceeding transferred to the commission, then this chapter shall govern all aspects of the proceeding that have not been completed.

(2) If a preliminary hearing has been held and a scheduling order has issued, but a hearing on the merits has not been held, then the presiding officer shall convene a prehearing conference to address and establish the following matters:

(A) whether 30 TAC Chapter 80 or this chapter shall govern discovery;

(B) whether the procedural schedule should be modified or the proceeding abated, or both, to allow a reasonable time for the staff of the commission to prepare and file testimony or to modify or adopt the testimony previously filed by the TCEQ;

(C) to discuss the filing requirements of the commission under this chapter; and

(D) to reconcile any other matters that may arise as a result of the transfer of the proceeding to the commission.

(3) If a hearing on the merits has been completed, but a proposal for decision has not been delivered, the proposal for decision shall be delivered to the commission and this chapter shall govern the remainder of the proceeding.

(4) If a proposal for decision has been issued, but the matter has not been decided, then:

(A) the administrative and hearing record shall be transferred to the commission as expeditiously as possible;

(B) if dates have not been set for exceptions and replies to exception to the proposal for decision, those dates shall be set and the parties notified of the dates; and

(C) the matter shall be scheduled for an open meeting before the commission.

(e) **Motions for rehearing.** Motions for rehearing for every proceeding transferred to the commission shall be governed by this chapter.

(f) **Proceedings initiated after September 1, 2014.** Every retail public utility proceeding initiated at the commission after September 1, 2014 shall be governed by this chapter and by Chapter 24 of this title (relating to Substantive Rules Applicable to Water and Sewer Service Providers).

(g) **Continuation of TCEQ rules.** The rules of the TCEQ related to the duties transferred to the commission regarding water and sewer utilities continue as rules of the commission until amended or replaced by this commission. This section is a replacement of those procedural rules, provided however, that the procedural rules of the TCEQ are continued for proceedings transferred to the commission to the extent not inconsistent with this section.

SUBCHAPTER P. Emergency Orders for Water and Sewer Utilities

§22.291. Purpose and Applicability.

(a) The purpose of this subchapter is to prescribe procedures to implement the commission's authority under the Texas Water Code to issue emergency orders or to authorize emergency rates.

(b) This subchapter applies to any application under the Texas Water Code for an emergency order or emergency rates.

§22.292. Definitions.

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

Emergency order -- An order which must be issued immediately to appoint a person to temporarily manage and operate a utility under Texas Water Code §5.507 and §13.4132, to authorize an emergency rate increase as authorized by Texas Water Code §5.508 and §13.4133, or to compel a water or sewer service provider to provide service as authorized by Texas Water Code §13.041(d).

§22.293. Notification of Emergency Order.

(a) A water or sewer utility that applies for, obtains, or is subject to an emergency order issued by the Texas Commission on Environmental Quality (TCEQ) shall notify the commission as soon as reasonably possible by:

(1) filing with the commission a copy of the application or order; or

(2) if the application or order is not available to the utility, filing with the commission a letter describing the facts and circumstances relating to the application or order.

(b) A water or sewer utility complies with this section if the information is provided as part of an application for an emergency order under §22.295 of this title (relating to Application for Emergency Order).

§22.294. Emergency Orders and Emergency Rates.

(a) The commission may issue an emergency order, with or without a hearing, to

(1) appoint a person under §24.142 of this title (relating to Operation of Utility that Discontinues Operation or is Referred for Appointment of a Receiver), §24.143 of this title (relating to Operation of a Utility by a Temporary Manager), and Texas Water Code §5.507 and §13.4132 to temporarily manage and operate a utility that has discontinued or abandoned operations or that is being referred to the attorney general for the appointment of a receiver under Texas Water Code §13.412.

(2) to compel a water or sewer provider that has obtained or is required to obtain a certificate of public convenience and necessity to provide continuous and adequate water service, sewer service, or both, if the discontinuance of the service is imminent or has occurred because of the service provider's actions or inactions; or

(3) to compel a retail public utility to provide an emergency connection with a neighboring retail public utility for the provision of temporary water or sewer service, or both, for not more than 90 days if discontinuance of service or serious impairment in service is imminent or has occurred.

(b) The commission may establish reasonable compensation for temporary service ordered under subsection (a)(3) of this section and may allow the retail public utility receiving the service to make a temporary adjustment to its rate structure to ensure proper payment.

(c) The commission may issue an emergency order, with or without a hearing, to authorize an emergency rate increase if necessary to ensure the provision of continuous and adequate services to the utility's customers pursuant to Texas Water Code §5.508 and §13.4133:

(1) for a utility for which a person has been appointed under Texas Water Code §5.507 or §13.4132 to temporarily manage and operate the utility that has discontinued or abandoned operations; or

(2) for a utility for which a receiver has been appointed under Texas Water Code §13.412.

(d) The commission may issue an emergency order under Texas Water Code §13.253(b) after providing a retail public utility notice and an opportunity to be heard at an open meeting of the commission:

(1) to make specified improvements and repairs to the water or sewer system;

(2) to require the utility to obligate additional money to replace the financial assurance used for the improvements;

(3) if the commission has reason to believe that improvements and repairs to the water or sewer system are necessary to provide continuous and adequate service in any portion of the utility's service area; and

(4) if the utility has provided financial assurance under Texas Health and Safety Code §341.0355 or Texas Water Code Chapter 5.

(e) If an emergency order is issued without a hearing, the order shall fix a time for a hearing that is as soon after issuance of the emergency order as practicable and a place for a hearing to be held before the commission or the State Office of Administrative Hearings (SOAH).

(f) An emergency order issued under this subchapter does not vest any rights and expires in accordance with its terms or this subchapter.

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

§22.295. Application for Emergency Order.

(a) A person seeking an emergency order under this subchapter shall submit a written application to the commission.

(b) For an applicant other than commission staff, the application must:

(1) be sworn;

(2) state whether the applicant is also seeking or has obtained an emergency order from the Texas Commission on Environmental Quality;

(3) state the name, address, and telephone number of the applicant, the person submitting the application on the applicant's behalf, and the person signing the application on the applicant's behalf;

(4) contain information sufficient to identify the facility and location to be affected by the order;

(5) describe the condition of emergency or other condition justifying the issuance of the order;

(6) allege facts to support any findings required under this subchapter;

(7) estimate the dates on which the proposed order should begin and end and the dates on which the activity proposed to be allowed, mandated, or prohibited should begin and end;

(8) describe the action sought and the activity proposed to be allowed, mandated, or prohibited;

(9) include any other statement or information required by this subchapter; and

(10) shall be signed as follows.

(A) For a corporation, the application shall be signed by a responsible corporate officer.

(B) For a partnership or sole proprietorship, the application shall be signed by a general partner or the proprietor, respectively.

(C) For a municipality, state, federal, or other public agency, the application shall be signed by either a principal executive officer or a ranking elected official.

(D) A person signing an application shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(c) For an application by commission staff, the application must:

(1) contain the items specified in subsection (b)(2) - (9) of this section; and

(2) be signed by commission staff.

§22.296. Additional Requirements for Emergency Rate Increases.

(a) An emergency rate increase may be granted under this subchapter 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 and require the utility to provide notice of the hearing to each customer.

(b) The additional revenues collected under an 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.

(c) A request for an emergency rate increase must be filed by the utility in accordance with, and must contain the information required by §22.295 of this title (relating to Application for Emergency 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 commission.

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

(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 that is not

related to consumption may be billed at the emergency rate on the effective date or the first billing cycle after approval by the commission.

(f) A utility receiving authorization for an emergency rate increase shall provide notice of the increase to each ratepayer as soon as possible, but no later than the effective date for the emergency 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 Public Utility Commission of Texas 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 §24.31 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 §24.30 of this title (relating to Escrow of Proceeds Received under Rate Increase).

§22.297. Notice and Opportunity for Hearing.

(a) An emergency order under this subchapter may be issued with or without notice and an opportunity for hearing in accordance with this subchapter.

(b) An emergency order issued under this subchapter without a hearing is not subject to the requirements of the Texas Administrative Procedure Act.

(c) If an emergency order is issued under this subchapter without a hearing, the order shall set a time and place for a hearing to affirm, modify, or set aside the order to be held before the commission or SOAH as soon as practicable after the order is issued.

(d) Except as otherwise provided by this subchapter, notice of a hearing to affirm, modify, or set aside an emergency order under this subchapter shall be given not later than the tenth day before the date set for the hearing. This notice shall provide that an affected person may request an evidentiary hearing on issuance of the emergency order.

(e) A hearing to affirm, modify, or set aside an emergency order under this subchapter is subject to the Texas Administrative Procedure Act.

§22.298. Contents of Emergency Order.

An emergency order issued under this subchapter shall contain at least the following:

(1) the name and address of the applicant, if any, and information sufficient to identify the facility or location affected by the order;

(2) a description of the condition justifying the issuance of the order;

(3) any findings of facts required under this subchapter;

(4) a statement of the term of the order, including the dates on which it shall begin and end;

(5) a description of the action sought;

(6) if the order was issued without a hearing, a statement to that effect and a provision setting a time and place for a hearing before the commission or SOAH; and

(7) any other statement or information required by this subchapter.

§22.299. Hearing Required.

A hearing shall be held either before or after the issuance of each emergency order. If no hearing is held before the issuance of an emergency order, a hearing to affirm, modify, or set aside the order shall be held before the commission or SOAH as soon as practicable after the order is issued.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that amendments to §22.1 relating to Purpose and Scope, §22.71 relating to Filings of Pleadings, Documents, and Other Materials, new §22.248 relating to Retail Public Utilities, and new Subchapter P, §§22.291 - 22.299 relating to Emergency Orders for Water and Sewer Utilities are adopted. The commission adopts §22.71, §22.248, §22.292, and §22.295 with changes to the text as proposed.

SIGNED AT AUSTIN, TEXAS on the _____ day of July 2014.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY D. MARTY, COMMISSIONER