



Control Number: 47304



Item Number: 5

Addendum StartPage: 0

2017 OCT 26 PM 3:36

AMENDING 16 TAC §24.142(a) FOR §  
APPOINTMENT OF RECEIVER FOR §  
WATER OR SEWER UTILITY – §  
PURSUANT TO TEXAS WATER CODE §  
§13.142(a) §

PUBLIC UTILITY COMMISSION

OF TEXAS

PUBLIC UTILITY COMMISSION  
FILING CLERK

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §24.142(a)  
APPROVED AT THE OCTOBER 26, 2017 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes to amend §24.142(a) by adding new subparagraph §24.21(a)(2)(D) and new clauses §24.21(a)(2)(D)(i) – (iii) relating to the operation of a utility that discontinues operation or is referred for the appointment of a receiver. The proposed amendments implement House Bill 294 (HB 294), 85<sup>th</sup> Texas Legislature, Regular Session, which amended Texas Water Code §13.142(a) (TWC) by adding an additional criterion for which, at the request of the commission, the attorney general shall bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility. Project Number 47304 is assigned to this proceeding. HB 294 specifies that, at the request of the commission, the attorney general shall bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility that violates a final judgment issued by a district court in a suit brought by the attorney general under TWC Chapters 7 or 13 or the Texas Health and Safety Code Chapter 341.

Ms. Tammy Benter, Director, Water Utility Regulation Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

5

Ms. Benter has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be to implement HB 294 and to ensure continuous and adequate service for water or sewer utilities by appointing a receiver to collect the assets and carry on the business of the utility in certain circumstances. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Benter has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under section 2001.022 of the Administrative Procedure Act (APA), Tex. Gov't Code Ann. §2001.02 (West 2016).

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the APA, Tex. Gov't Code Ann. §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on November 30, 2017. The request for public hearing must be received by November 15, 2017.

Comments on the proposed amendments may be filed with the Commission's Filing Clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, TX 78711-3326, within 30 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed by §22.71(c) of this title. Reply comments may be submitted within 40

days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission will consider the costs and benefits in deciding whether to adopt the identified section. All comments should refer to Project Number 47304.

The amendments are proposed under TWC §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross reference to statutes: TWC §13.041(b).

**§24.142. Operation of Utility that Discontinues Operation or is Referred for Appointment of a Receiver.**

- (a) After providing a utility with notice and an opportunity for a hearing, the commission may appoint a willing person, municipality, or political subdivision to temporarily manage and/or operate a utility that:
  - (1) has discontinued or abandoned operations or the provision of services; or
  - (2) is being referred to the attorney general for the appointment of a receiver under TWC §13.412 for:
    - (A) having expressed an intent to abandon or abandoned operation of its facilities;
    - (B) having violated a final order of the commission; ~~or~~
    - (C) having allowed any property owned or controlled by it to be used in violation of a final order of the commission; or
    - (D) having violated a final judgment issued by a district court in a suit brought by the attorney general under:
      - (i) Chapter 13, Texas Water Code;
      - (ii) Chapter 7, Texas Water Code; or
      - (iii) Chapter 341, Texas Health and Safety Code.
- (b)-(d) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 26th DAY OF OCTOBER 2017 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

Q:\CADM\TXR-Rules Management\Rules\Rulemaking Projects\CH 24 Water\47304\47304pub.doc

